

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
Case Type: Civil Other/Ballot Omission
Declaratory Judgment

Bruce Clark, Peter Butler, and Ann Dolan,

Petitioners,

v.

City of Saint Paul, Minnesota;

and,

SUMMONS

Shari Moore, in her official capacity
Saint Paul City Clerk;

and,

Joseph Mansky, in his official capacity
Ramsey County Elections Manager;

Respondents.

THIS SUMMONS IS DIRECTED TO RESPONDENT: City of Saint Paul.

1. **YOU ARE BEING SUED.** The Petitioners have started a lawsuit against you. The Petitioners' Petition against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.

2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this summons a **written response** called an Answer/Response within 20 days of the date on which you received this Summons. You must send a copy of your Answer/Response to the person who signed this summons located at: Halper & Joseph, PLLC., 300 E. Frontage Road, Suite A, Waconia, MN 55387.

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer/Response is your written response to the Petitioners' Petition. In your Answer/Response you must state whether you agree

or disagree with each paragraph of the Petition. If you believe the Petitioners should not be given everything asked for in the Petition, you must say so in your Answer/Response.

4. YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE PETITION TO THE PERSON WHO SIGNED THIS SUMMONS. If you do not Answer or Respond within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Petitioners everything asked for in the Petition. If you do not want to contest the claims stated in the Petition, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Petition.

5. LEGAL ASSISTANCE. You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. ALTERNATIVE DISPUTE RESOLUTION. The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Petition even if you expect to use alternative means of resolving this dispute.

Dated: February 7, 2019

/s/ Gregory J Joseph
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ATTORNEY FOR PETITIONERS

STATE OF MINNESOTA

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Ramsey County Elections Manager;

Respondents.

**PETITION FOR CORRECTION OF
BALLOT ERROR AND FOR
DECLARATORY JUDGMENT**

Court File No. _____

INTRODUCTION

1. This is a petition by a group of Saint Paul residents (“Petitioners”) seeking to exercise their right to place a referendum on Ordinance 18-39¹ (the “Referendum”) concerning organized collection of solid waste on the municipal election ballot. The Saint Paul City Charter (the “Charter”) provides that a petition “signed by registered voters equal in number to eight (8) percent of those who voted for the office of mayor” at the last election may compel the

¹ Ordinance 18-39 is attached hereto as Exhibit A.

immediate suspension of an ordinance, pending its approval by the voters, upon a finding of sufficiency by the city clerk and council. Charter at §8.02(1) (attached hereto as Exhibit B)².

2. A petition for referendum on Ordinance 18-39 (the “Petition”) was timely filed in October, 2018, and the Ramsey County Elections Manager determined that it contained enough valid signatures to comport with the strictures imposed by the Charter. *See* Mansky Letter (attached hereto as Exhibit C). The Petition was thereafter referred to the Saint Paul City Council (the “City Council”) and, roughly a week after the fall election, it was found legally sufficient on November 14, 2018. On this finding the Charter requires immediate suspension of the ordinance pending its placement on the ballot or outright repeal.

3. Rather than performing its non-discretionary duty, however, the City Council passed Resolution 18-1922 (attached hereto as Exhibit D), which directed the city clerk not to submit the Referendum for placement on the ballot. In doing so it violated the provisions of the Charter and ignored the thousands of city residents who signed the Petition. Thus, because of the City Council’s unlawful act, the Referendum on Ordinance 18-39 is about to be wrongfully omitted from the municipal ballot by the Respondents.

4. The City Council cited three reasons for refusing to submit the ballot question to the voters.³ First, it claimed the measure was preempted by Minnesota Statutes §115A.94 and

² Available at https://library.municode.com/mn/st._paul/codes/code_of_ordinances?nodeId=PTICICH_CH8INRERE_S8.01INRERE

³ The language used in Resolution 18-1922 is awkward. It reads as follows: “...the City Council finds that the *provision of the City Charter* allowing referendum for the subject matter of the Petition...” is illegal for various reasons. Ex. C at 2 (emphasis added). This would suggest that the City Council is deleting the right of referendum from the Charter only as it applies to this narrow subject matter. If that is the case, then the City Council would need to follow the appropriate procedure to amend the Charter per Minn. Stat. Ch. 410, which has not been done here. More likely is that the City intended that the Petition and referendum on Ordinance 18-39 should be considered preempted and unlawful, so Petitioners will treat their argument as such.

§443.28. *See* Ex. D at 2. Next, the City Council claimed the measure would unconstitutionally interfere with its contract with the collective of trash haulers (the “Consortium”), which was forcibly created when the City announced its intention to organize collection of solid waste. *See Id.* Finally, the City claimed a “conflict with state public policy,” and declared the measure “not appropriate to submit to the electorate.” *Id.* None of these positions has any legal merit.

5. Minnesota law requires the language of a municipal ballot question to be finalized not less than 74 days before election day. Minn. Stat. §205.16(4). The fall election will be held on November 5, 2019, so the final language of the ballot measure must be submitted to Ramsey County election officials no later than August 23, 2019.

6. Petitioners bring this Petition pursuant to Minn. Stat. §204B.44 because they seek prompt judicial review and remedial action by the Court. The Court must direct that the Referendum be immediately placed on the municipal election ballot.

7. Further, the City Charter requires that the ordinance which is the subject of a referendum be “suspended in its operation as soon as the petition is found sufficient.” Ex. B at §8.05. Under this authority, Petitioners respectfully request that the Court direct the City to either suspend operation of, or repeal, Ordinance 18-39 forthwith.

8. Without immediate intervention by the Court, Petitioners will suffer irreparable harm. The City continues to enforce the terms of 18-39 in violation of the Charter.

9. Alternatively, Petitioners seek declaratory relief under the Uniform Declaratory Judgments Act in Minn. Stat. §555.02.

PARTIES

10. Petitioner Bruce Clark is a registered voter and resident of the City of Saint Paul, Minnesota, a home rule charter city. Petitioner Clark signed and helped to circulate the Petition for Referendum on Ordinance 18-39.

11. Petitioner Peter Butler is a registered voter and resident of the City of Saint Paul, Minnesota, a home rule charter city. Petitioner Butler signed and helped to circulate the Petition for Referendum on Ordinance 18-39.

12. Petitioner Ann Dolan is a registered voter and resident of the City of Saint Paul, Minnesota, a home rule charter city. Petitioner Dolan signed and helped to circulate the Petition for Referendum on Ordinance 18-39.

13. Respondent City of Saint Paul is a home rule charter city under the laws of the State of Minnesota with the capacity to sue and be sued. The City, through its City Council, is the legal entity responsible for the passage of Resolution 18-1922 which directed the Referendum on Ordinance 18-39 to not be placed on the municipal ballot.

14. Respondent Shari Moore is the City Clerk for the City of Saint Paul. Along with the other Respondents, she is responsible for preparing the municipal ballot for the general election to be held on November 5, 2019.

15. Respondent Joseph Mansky is the Ramsey County Elections Manager. The City of Saint Paul contracts with Ramsey County for management of its elections. Along with the other Respondents, Mr. Mansky is responsible for preparing the municipal ballot for the general election to be held on November 5, 2019.

FACTUAL BACKGROUND

16. Homes and businesses in Saint Paul generate trash, which is defined by Minnesota Law and in the Charter as “Mixed Municipal Solid Waste (“MMSW”).

17. For many years, Saint Paul has utilized an open hauling system whereby residents of the city contract privately with haulers who are licensed to collect MMSW in the city and compete with one another for business.

18. At some point in 2016, City officials began exploring the possibility of organizing collection of MMSW in the City pursuant to Minnesota Statute §115A.94 of the Waste Management Act, Minn. Stat. Ch. 115A (“WMA”).

19. Organized collection is a scheme under which the competitive market in MMSW collection is replaced with a system of city-defined MMSW districts. Under organized collection, individuals lose the right to contract with their hauler of choice at a competitive, negotiated rate, in favor of an assigned hauler and fixed price which are determined by the City.

20. In order to organize collection, a city must first follow certain minimum procedures laid out in §115A.94.

21. Organized collection is optional on the part of a city. Section 115A.94 subd. 6 makes it clear that the legislature is indifferent toward a city’s chosen method of collecting waste.

22. On November 14, 2017, the City executed a contract with the Consortium (the “Hauler Contract”) laying out the terms of organized collection in Saint Paul.

23. On September 5, 2018, nearly 10 months after the Hauler Contract was signed, Ordinance 18-39 was adopted, which effectuated organized collection in the City.

24. Saint Paul reserves for its people legislative power coequal to that of the City Council. This includes the right to a referendum on *any* ordinance. *See* Ex. B at §8.05. The Charter outlines the method by which a referendum must be brought, including the requirement that any petition for referendum must contain the signatures of registered voters equal in number to eight (8) percent of those who voted for mayor at the last municipal election. *See* Ex. B at §8.02.

25. The pertinent preceding city election took place on November 7, 2017, and there were 61,646 first choice votes for mayor. So, the required number of signatures for a petition for referendum is 4,932. *See* Ex. C.

26. Petitioners are part of a grassroots coalition of neighbors and friends who oppose the City's organized collection scheme. Among other things, Petitioners object to the loss of the right to opt out of trash hauling service in the City, the plan's damaging effects on the environment, and the higher prices foisted upon the public.

27. Petitioners seek to exercise their right under the Charter to submit organized collection of MMSW to the voters in the form of a referendum.

28. On October 16, 2018, Petitioners submitted to the Ramsey County Elections Office a total of 6,469 signatures in support of the Referendum on Ordinance 18-39. *See* Ex. C.

29. On October 31, 2018, the Elections Office accepted 5,541 signatures as valid and compliant with §8.02(1) of the Charter. *Id.* Having met the number of required signatures, the office certified the Petition as sufficient and referred it to the City Clerk to present to the City Council as required by the Charter.

30. On November 14, 2018, the City Council accepted the Petition as sufficient to satisfy the signature requirements of Section 8.02 of the Charter. *See* Ex. D.

31. That same day, however, the Council simultaneously voted not to place the Referendum on the November ballot. *Id.*

32. Based upon Resolution 18-1922 which was passed by the Council, Respondents will refuse to include the Referendum on Ordinance 18-39 on ballots for the November 5, 2019 election.

ANALYSIS

33. Saint Paul, like other home rule charter cities, has broad authority to regulate its affairs, and home rule charters prevail over general statutes pertaining to subjects proper for municipal regulations. *State ex. rel. Lowell v. Crookston*, 252 Minn. 526, 91 N.W.2d 81, 83 (1958). Under Minnesota Statute, and consistent with the State Constitution, a home rule charter “may provide for the establishment and administration of *all* departments of a city government, and for the regulation of *all* local municipal functions, *as fully as the legislature might have done.*” Minn. Stat. §410.07 (emphasis added).

34. Here, the power reserved for the voters in Saint Paul is coequal and coextensive to that of the City Council. The Charter secures for its citizens the rights of initiative, referendum, recall of public officials, and charter amendment. *See gen. Ex. B.* If the City Council has the authority to undo an ordinance, the voters do, too.

35. In Resolution 18-1922 the City cited three grounds as pretext for rejecting the Referendum. First, we are told, it is preempted by Minnesota law. Next, it is an unconstitutional contractual interference. Finally, the City alleges a conflict with “public policy.” These baseless allegations require a recognition of the City Council’s authority to change legislation, but not that of the voters. Each will be discussed in turn.

A. Minnesota Statute §115A.94 does not preempt the Referendum.

36. The first contention by the City is that the Referendum is preempted by the organized collection statute. This is plainly and demonstrably wrong. Both the legislature and more recently the Minnesota Supreme Court have removed any doubt that local charter authority is rightfully exercised in the organized collection process. To suggest that the Referendum is preempted by Minn. Stat. §115A.94 is an outrage.

37. Minn. Stat. §115A.94, Subdivision 6 reads as follows:

Subd. 6. Organized collection not required or prevented.

- (a) The authority granted in this section to organize solid waste collection is optional and is *in addition to authority to govern solid waste collection granted by other law.*
- (b) Except as provided in subdivision 5, a city, town, or county is not:
 - (1) required to organize collection; or
 - (2) prevented from organizing collection of solid waste or recyclable material.
- (c) Except as provided in subdivision 5, a city, town, or county *may exercise any authority granted by any other law, including a home rule charter,* to govern collection of solid waste.
(Emphasis added).

38. The defining characteristics of a home rule charter city as used in Subd. 6(c) are initiative, referendum, recall, and charter amendment power under Minnesota Statutes Chapter 410. The legislature can *only* have meant to reserve this power for cities like Saint Paul. But, as the City is well aware, this is not the only authority directly on point that allows for the Referendum.

39. *Jennissen v. Bloomington* is a Hennepin County case involving circumstances nearly identical to those in the case at bar.⁴ Like the City Council in Saint Paul, the Bloomington City Council in *Jennissen* also claimed that the plaintiffs’ proposed ballot measure was preempted by Minn. Stat. §115A.94.⁵ In its June, 2018 opinion, the Minnesota Supreme Court found as follows:

...perhaps the strongest signal of the Legislature’s intent not to preempt, but to provide municipalities with considerable flexibility, is found in subdivision 6. In addition to clarifying that organizing collection is optional for municipalities, subdivision 6 expressly states that “the authority granted in this section . . . is *in addition to authority* to govern solid waste collection *granted by other law*,” *id.*, subd. 6(a) (emphasis added), “*including a home rule charter*.” *Id.*, subd. 6(c) (emphasis added). Thus, section 115A.94 expressly leaves room for any municipal action that is authorized under a city charter or other law relating to organized collection or the governance of solid waste collection.⁶

(emphasis in original).

40. The *Jennissen* Court did away with any notion of preemption by §115A.94 just five months before the Saint Paul City Council denied the Referendum on Ordinance 18-39. There is no excuse for this blatant disregard of the law. The Court’s unequivocal rejection of the preemption argument does not end there.

41. Before the Supreme Court took up the preemption issue, the Minnesota Court of Appeals held that “(t)he (Waste Management Act) does not preclude a city from reconsidering and terminating a system of organized collection once established.”⁷ Therefore, precedent is that a city is specifically authorized to use its own controls to terminate organized collection *at any time, for any reason*, including by a vote of the people in a home rule charter city.

⁴ 913 N.W.2d 456 (Minn. 2018).

⁵ *See Id.*

⁶ *Id.* at 462.

⁷ *Jennissen v. Bloomington*, 904 N.W.2d 234, 243 (Minn. Ct. App. 2017).

B. Minnesota Statute §443.28 does not preempt the Referendum.

42. Next, the City claims that Minn. Stat. §443.28 must preclude the peoples' right to bring about legislation under a home rule charter. This law, which hasn't changed since its passage in 1945, is part of an antiquated set of statutes meant to regulate landfills, incinerators, and other "facilities" for disposal of "rubbish."⁸ For a number of reasons, this statute cannot be interpreted to preempt the Referendum in the case at bar.

43. The legislature intended to preserve charter power for cities under Chapter 443. Minn. Stat. §443.34 reads a lot like Subdivision 6 in §115A.94:

443.34 POWERS ADDITIONAL.

The provisions of sections 443.26 to 443.35 shall be construed as *an addition to existing charter or statutory powers* of any city of the first class and *not as an amendment to or repeal thereof*, the purpose of these sections being to permit any city of the first class to engage in the activities hereinbefore authorized, to promote the public health, safety, welfare, convenience, and prosperity of the city.

(emphasis added).

44. It is hard to imagine a more explicit reservation of local authority than this. To be clear, in order to find that §443.28 preempts the Referendum as the City claims, the Court will need to find that the legislature does not reserve power for local governments in the above language.

45. If the provisions of Minn. Stat. Ch. 443 were so important as to preempt local authority in the organized collection process, one would expect at least a passing reference to it in the organized collection statute - §115A.94. There is none. Moreover, there is also no

⁸ The City uses "removal" and "collection" interchangeably in Resolution 18-1922, whereas this statute concerns "disposal." For the City's interpretation to make sense, these terms must all be synonymous. They are not, especially in this context and that of §115A.94.

mention of Chapter 443 anywhere in the entirety of the Waste Management Act.⁹ It hardly stands to reason that the legislature intends the negation of an enumerated right in §115A.94 by a statute that is completely unreferenced, especially in a law as detailed as the organized collection statute.

46. The next in a series of logical leaps required to find preemption is the selective redefinition of common terms. For the City's interpretation of §443.28 to make sense, the Court must equate "facility" with "garbage truck."¹⁰ Not even the City Council uses that definition. The Hauler Contract defines "Trash Disposal Facility" as "The facility(s) where Trash collected under this Contract is deposited." Hauler Contract p. 8 (Attached as Exhibit E). Contrast this with "Collection Vehicle," which is defined as "Any vehicle licensed and inspected as required by the state and county and utilized by a Consortium Member to provide Residential Collection Services."¹¹ *Id.* at 4. The statute was plainly never intended to bend this way.

47. Perhaps the most glaring example of the City Council's shifting interpretation of Minnesota Law comes by way of a different referendum, which was validated just a few weeks prior to the Referendum on Ordinance 18-39 being denied. *See* Resolution 18-1760 (attached hereto as Exhibit F). A petition calling for referendum on Ordinance 18-40¹², which also

⁹ Codified at Minn. Stat. Ch. 115A.

¹⁰ Minn. Stat. §443.28 provides that the city council "...is authorized to employ present facilities, and to provide additional facilities, for rubbish disposal." It goes on to provide that the council may set the rates for such rubbish disposal, the basis for those rates, and the like. The supposed requirement to "set rates" in this statute is the foundation for the City's preemption argument.

¹¹ If the City's interpretation of §443.28 in Resolution 18-1922 is correct, and this statute "...requires a city to adopt rates for rubbish removal by ordinance," then there is another problem. The City has been in violation of this statute for decades. The rates for removal of MMSW from private residences have been negotiated and set by licensed haulers and their customers for decades, not by Saint Paul city government diktat. It's hard to believe this would have escaped scrutiny.

¹² Ordinance 18-40 is attached hereto as Exhibit G.

concerned organized collection in the City, was brought before the City Council on October 11, 2018. *See Id.* The City Council found a sufficient number of valid signatures, just as it did for the Referendum on 18-39. *See Id.* In this example, however, Ordinance 18-40 was *repealed* by the City Council. Ex. F at 2. This ordinance concerned exactly the same subject matter as the Referendum, yet the City Council made no mention of preemption, unconstitutionality, or public policy. It is not clear how the City intends to reconcile these two diametrically opposed actions.

C. The Referendum is not unconstitutional.

48. Seemingly intent on making every mistake made in *Jennissen*, the City next proclaimed the Referendum an “unconstitutional interference” with the Hauler Contract. The Charter itself makes it clear there is nothing illegal about the Referendum. Further, the Hauler Contract anticipates and specifically provides for a change in law.

49. It is the City’s burden to explain how any of this is unconstitutional, but we know the Referendum is not precluded just because a contract *exists*. Section 8.05 of the Charter provides for referendum on “*any ordinance*,” whether legislative or administrative in nature.¹³ It also allows for referendum on “resolution(s) passed pursuant to subdivisions (5) or (6) of Section 6.03.3” of the Charter.¹⁴

50. Virtually every ordinance or resolution passed by the City Council has contractual implications in one form or another. Subdivisions (5) and (6) of §6.03.3, however, can *only*

¹³ *See* Charter at §6.03.1 - §6.03.2, available at https://library.municode.com/mn/st._paul/codes/code_of_ordinances?nodeId=PTICICH_CH8INRERE

¹⁴ *Id.*

concern contracts signed by the City.¹⁵ If the framers of the Charter intended that the signing of a contract by City government officials would erase the power of referendum on that measure, we certainly would not see these provisions. Thus, we know that the existence of a signed contract, by itself, is not an excuse to exclude the Referendum.

51. Unlike a charter amendment or ballot initiative, either of which may contain language with potentially dubious constitutionality, the referendum is a very simple mechanism. It provides for immediate suspension of an ordinance pending an up-or-down vote by the people. If Ordinance 18-39 is overturned at the ballot box, it is true that the Hauler Contract would necessarily be terminated. But termination of a contract by its own terms, and unconstitutional contract interference, are not the same thing.

52. The Hauler Contract proves that the City was aware that a change in law may have an impact on its terms. Section 13.6 of the Hauler Contract excuses performance by either party in the event of a legislative act beyond that party's reasonable control. Ex. E at 48, §13.6. Further, §3.1.4 is entitled "Adjustment Due to Change in Law," and provides for specific outcomes in the event of "...any amendment to, or promulgation of any federal, state, city or local statute, regulation, or ordinance..." that changes performance requirements. *Id.* at 30-31, §3.1.4 - §3.1.4.2. These terms demonstrate that the City was well aware of public opposition to the organized collection scheme and that a change in the law was a fully anticipated, bargained-for, practical reality. The Constitution is not implicated here.

¹⁵ These govern collective bargaining agreements, setting of wages and salaries, and other terms of employment. Saint Paul City Charter §6.03.3, available at https://library.municode.com/mn/st._paul/codes/code_of_ordinances?nodeId=PTICICH_CH6LEPR

D. Rejection of the Referendum is bad public policy.

53. The City's final reason for rejecting the Referendum in Resolution 18-1922 is that it "conflicts with state public policy." We are not told exactly *which* public policy it conflicts with, nor does the City explain *how* it conflicts with it. And so we are left to assume that a conflict with "public policy" really means a conflict with the ambitions of the City Council. If so, this tired argument has been made about voter legislation since its inception and can be made about literally any ballot measure. It is not a basis to keep the Referendum out of the hands of the voters.

54. The Charter reserves broad legislative power for Saint Paul voters which is not subject to the approval or disapproval of the City Council. Only in the most extraordinary cases may ballot measures such as the Referendum be excluded from the ballot, and this is not one. "Unconstitutional" and "inconvenient" are not interchangeable terms.

55. Minn. Stat. §115A.94, Subdivision 4(d) provides that "Upon execution of an agreement between the participating licensed collectors and city or town," the city is to organize collection using "appropriate local controls." Saint Paul signed the Hauler Contract, and then waited almost 10 months to pass Ordinance 18-39 effectuating organized collection in the City. This delay does not negate the peoples' right to referendum, no matter the inconvenience it may cause.

56. Justice Yetka wrote the dissent in *Davies v. Minneapolis* in 1982.¹⁶ His words were prescient:

The record is permeated with blatant efforts to avoid a citizen referendum, the effect of which was to circumvent the home rule amendment to the Minnesota Constitution. I fear the majority opinion has condoned that practice here and will encourage both the legislature and the local units of government to attempt further weakening of the home rule amendment.¹⁷

57. The very same conduct that Justice Yetka warned about is on full display today in Saint Paul.

58. Voter ballot measures will always present an inherent conflict with the desires of the City Council. The legislature and the framers have taken precautions to ensure that Charter rights are protected. To validate the denial of the Referendum effectively deletes these powers, and rewards the City for ignoring them. This is terrible public policy.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court issue an Order pursuant to either Minn. Stat. §204B.44 or Minn. Stat. §555, that directs the immediate suspension of Ordinance 18-39 pending approval or disapproval by the voters in Saint Paul, pursuant to the Saint Paul City Charter §8.05. Concurrently, Petitioners ask that the Respondents be required to

¹⁶ 316 N.W.2d 498 (Minn. 1982).

¹⁷ *Id.* at 508.

either prepare for citywide election a ballot that includes the Referendum on Ordinance 18-39 or repeal the Ordinance forthwith.

Dated: February 7, 2019

/s/ Gregory J Joseph
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ATTORNEY FOR PETITIONERS

Acknowledgement

I hereby acknowledge that, pursuant to Minn. Stat. §549.211, subd. 3, sanctions may be imposed by this Court if it determines that Minn. Stat. §549.211, subd. 2, has been violated.

Dated: February 7, 2019

/s/ Gregory J Joseph
Gregory J Joseph, MN Bar No. 0346779

EXHIBIT A



Legislation Text

File #: Ord 18-39, **Version:** 3

Creating Chapter 220 of the Saint Paul Legislative Code regulating coordinated collection of certain residential trash.

Chapter 220 Of the Saint Paul Legislative Code Entitled "Residential Coordinated Collection" Is Hereby Created To Read As Follows:

Section 1

Sec. 220.01.

Definitions: The following words or terms shall have the following meanings, unless the context clearly indicates otherwise.

- a. *Additional Service Options.* Collection services above base level services that may include, but are not limited to: overflow trash bags beyond the contents of the first trash cart, yard waste subscription, yard waste without subscription, bulky waste in excess of bulky base service per calendar year, walk-up service (and over 100- foot walk-up service) for non-eligible RDU, return fee or off-day service fee, cart size change fee, and extra cart fee.
- b. *Base Level Services.* The trash collection and disposal services common to all RDUs, as defined herein, and includes weekly or bi-weekly collection and disposal of one trash cart at each RDU and a designated number of bulky waste items each year.
- c. *Bulky Waste.* Consists of large items that should not be put into carts including, but not limited to: stoves, refrigerators, water heaters, washing machines, bicycles, lawn mowers, mattresses, box springs, furniture, electronics and other such materials.
- d. *Carts.* The wheeled and lidded trash and yard-waste labeled containers in which materials can be stored and later rolled out for collection on the designated collection day.
- e. *Collection Hours.* The time-period during which services are authorized by the City, from 6:00 a.m. to 8:00 p.m. Monday through Friday, or Monday through Saturday during weeks that contain a holiday.
- f. *Collection Location.* The City-designated location for placement of carts, bulky waste and yard waste, no more than four (4) feet from the curb or alley-line.
- g. *Compostable Bags.* Paper kraft bags or bags that meet ASTM standard certification for compostable plastics (d6400) within a composting operation as required by Minn. Stat. § 115A.931, subd. (c) and Minn. Stat. § 325e.046, as they may be amended from time to time, for collection of any yard waste

that is not contained in a yard waste cart or yard waste bundle.

- h. Coordinated Collection Invoice. The bill sent by a designated hauler to an RDU owner for services.*
- i. Designated Hauler. The hauler assigned to provide services to an individual RDU.*
- j. Electronic waste. Consists of any discarded consumer electronic device with a circuit board including, but not limited to: televisions, computers, laptops, tablets, computer monitors, peripherals (e.g., keyboard, printer, mouse, etc.), cell phones, DVD recorders/players and video cassette recorders/players and fax machines as specifically referenced in Minn. Stat. § 115A.1310, as it may be amended from time to time.*
- k. Extended Leave Suspension. A suspension of services due to an absence from the RDU for at least four (4) but no more than twenty-six (26) consecutive weeks due to a vacation or other travel, temporary employment or education relocation, health concern, or other similar absence.*
- l. Hazardous Waste. Any hazardous, biohazardous, infectious, radioactive, flammable, explosive, biomedical, or toxic waste as defined by applicable laws or regulations, including without limitation, any hazardous waste regulated under the resource conservation & recovery act, 42 U.S.C. §§ 6901 et seq. and associated regulations, 40 C.F.R. part 261; or the toxic substance control act, 15 U.S.C. §§ 2601 et. seq and associated regulations, 40 C.F.R. part 761, or the materials described in Minn. Stat. § 116.06, subd. 11, as it may be amended from time to time.*
- m. Holidays. The following six (6) major holidays observed each year: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.*
- n. Holiday Tree. A tree no larger than six (6) feet in length, twenty (20) pounds in weight which is set at the collection location for collection between January 1st and January 15th of each year.*
- o. Late Set Out Collection. The failure of an RDU to set out trash, yard waste, or bulky wastes, electronic wastes, and other additional collection service options for collection by 6:00 a.m. on the scheduled day for collection of the material(s). An RDU that sets out a cart or materials after 7:00 a.m. may request a late set out collection for a fee as adopted by the Council by resolution.*
- p. Mixed Municipal Solid Waste. Has the meaning prescribed in Minn. Stat. § 115A.03, subd. 21, as it may be amended from time to time.*
- q. Opt-In. An option for attached dwelling units with more than four units that have carted service to participate in services. Once an RDU has opted in, it may not withdraw.*
- r. Overflow Trash Bag. Extra bag of trash that does not fit into the trash cart which is set out by an RDU at the collection location next to the trash cart. Overflow trash must be placed in a bag that is securely closed, no larger than 35 gallons, and less than 40 pounds.*
- s. Overflow Yard Waste Bag. Extra compostable bag of yard waste that does not fit into the yard waste*

cart. Overflow yard waste must be placed in a compostable bag that is securely closed, no larger than 35 gallons, and less than 40 pounds.

- t. Property Owner.* The RDU owner of record with Ramsey County Taxation.
- u. Residential Dwelling Unit (RDU).* Any dwelling unit in any one-, two-, three-, or four-unit residential building within the City, including dwelling units in residential buildings with more than four attached dwelling units using carted service that opt-in to receive services.
- v. Residential Solid Waste.* All solid waste from an RDU which normally results from the operation of a household including, but not limited to: mixed municipal solid waste (trash), recyclables, yard waste, and bulky waste. Residential solid waste does not include hazardous waste.
- w. Residential Collection Services or Services.* The regular collection from an RDU of trash, yard waste, and bulky waste which normally results from the operation of a household.
- x. Special Waste.* Waste that requires special management or treatment, including but not limited to, auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, lead acid batteries, motor and vehicle fluids and filters, asbestos containing materials, and other materials that require special handling or disposal.
- y. Source-Separated Recyclable Materials.* Recyclable materials, including comingled recyclable materials, that are separated by the generator and separately placed for collection by the City's designated recyclable materials collection contractor.
- z. Trash.* Garbage, refuse, and other discarded waste materials in solid form resulting from residential activities as generated by an, specifically excluding unacceptable materials, bulky waste, yard waste, and source-separated recyclable materials.
- aa. Trash Disposal Facility.* The facility(s) where trash is deposited.
- bb. Trash Collection.* The taking of trash placed by the RDU at the collection location at the RDU chosen service level.
- cc. Trash Collection Costs.* Cost of base level services and additional service options.
- dd. Trash Collection Day.* Designated trash collection day of the week for an RDU. For weeks containing a holiday, trash collection day may be delayed one day and may be provided on a Saturday.
- ee. Unacceptable Materials.* Items which an RDU is prohibited from placing for collection from any of the waste streams (e.g. trash, yard waste, bulky waste) that are not allowed because they may contaminate the specific waste stream, cause an unsafe handling/management situation, or otherwise may harm the environment. Examples include, but are not limited to:

 - 1. Prohibited trash: biomedical waste such as hypodermic needles, hazardous waste, special

waste, source-separated recyclable materials, electronic waste.

2. Prohibited yard waste: prohibited trash items referenced above and any itmes not specifically identified in the definition of yard waste.
3. Prohibited bulky waste: prohibited trash items referenced above (with the exception of electronic waste) and any items not specifically identified as being accepted.
4. Hazardous materials.

ff. Walk-Up Service. Means the collection of a trash cart from a location other than the collection location. Walk-up service specifically excludes bulky waste and yard waste.

gg. Yard Waste. Means garden waste, leaves, lawn cuttings, weeds, shrub and tree waste, prunings, and holiday trees; but does not include dirt, rocks, tree stumps, or any woody items more than three (3) inches in diameter or three(3) feet in length.

hh. Yard Waste Bundle. Yard waste that is fastened together which shall not exceed forty (40) pounds or two (2) feet in diameter and three (3) feet in length.

ii. Yard Waste Cart. A cart provided by the designated hauler to an RDU who purchases a yard waste subscription that has a maximum capacity of ninety-eight (98) gallons.

jj. Yard Waste Collection. The pick-up, transportation and delivery to an appropriate processing facility of yard waste discarded in a yard waste cart, or compostable bag not in excess of forty (40) pounds, or yard waste bundle not in excess of forty (40) pounds.

kk. Yard Waste Collection Day. Designated yard waste collection day of the week for an RDU, which may be the same as the trash collection day. If the yard waste collection day falls on a holiday, services will be delayed one day and may be provided on a Saturday.

ll. Yard Waste Subscription. Separate weekly yard waste collection from April 15th through November 30th that an RDU may receive upon request. The designated hauler will provide the yard waste cart to a subscribing RDU. A subscribing RDU may fill the yard waste cart and up to eight compostable bags each week.

Sec. 220.02

Care Of Trash, Residential Solid Waste And Yard Waste. It shall be the duty of every RDU to, at least once every fourteen (14) days, with the exception of RDU's who are on an Extended Leave Suspension, deposit all trash in approved containers for collection by a Designated Hauler.

- a. Trash shall be kept in an appropriate cart provided by the City. Carts shall be maintained and cleaned,

and in a state of repair which will prevent leakage. Overflow bags shall be kept inside a building until put out for collection.

- b. A RDU may not include any unacceptable materials with trash.
- c. All uncontained bulky waste, trash, or yard waste shall be kept in an enclosed building until put out for collection. These requirements do not apply to dumpsters used for construction debris, or refuse as part of an active project or clean-up of that property.
- d. Yard waste shall be kept separate from other solid waste until put out for collection in a yard waste cart, compostable bag, or yard waste bundle. Yard waste may be removed by the designated hauler when placed at the collection location, self-hauled by an RDU, or removed by a lawn or landscape business. If yard waste is kept on the site, it is to be composted.
- e. RDU's shall not store trash, residential solid waste, yard waste, or bulky waste in a way that creates a nuisance as defined in Chapter 45.

Sec. 220.03

Hauling And Collection Of Residential Solid Waste Services. All trash collected, conveyed and disposed of by residential solid waste haulers for RDU's shall be pursuant to a written contract with the City that will specify the residential hauling districts, base level services, collection hours, additional service options, extended leave policies, and other details relating to services. No person or entity shall engage in the business of residential solid waste collection from RDU's in the City unless it is pursuant to a contract with the City. All previous private contracts between solid waste haulers and RDU's became null and void on October 1, 2018. No new private contract between a solid waste hauler and an RDU for services will be valid.

Sec. 220.04

Duties Of RDU Owners. It shall be the responsibility of every owner of an RDU to:

- a. Choose a trash cart size (and frequency if choosing a small cart) and utilize the base level solid waste services from the designated hauler as contracted by the City. An RDU who fails to choose a trash cart size will be assigned a medium trash cart.
- b. Follow the City's guidelines and instructions for storing and setting out residential solid waste materials, including placement of their residential trash and yard waste in designated carts for each type of waste with the lid fully closed.
- c. Place the trash, bulky waste, yard waste cart and any overflow bags, compostable bags, and yard waste bundles at the collection location no more than 18 hours before, but no later than 6:00 a.m. on the day of collection and remove the cart(s) the same day as the scheduled collection day unless the

RDU receives walk-up collection.

- d. Make certain that no yard waste is placed out for collection unless in a designated yard waste cart, compostable bag, or in a yard waste bundle.
- e. Make certain that all bulky items placed out for collection are empty of all food and liquids.
- f. Make certain that no bulky waste or, for an RDU who does not purchase yard waste subscription, compostable bags containing yard waste or yard waste bundles is placed out for collection unless the RDU notifies the designated hauler at least forty-eight (48) hours prior to the collection day.
- g. Make certain that no unacceptable materials are placed out for collection within any trash cart, yard waste cart, overflow trash bag, compostable bag, or yard-waste bundle. Haulers will not knowingly pick up unacceptable materials.
- h. Provide at least two weeks advance notice to the designated hauler that the RDU will not require services for at least four consecutive weeks because of an extended leave so as to obtain credit on the next coordinated collection invoice. An RDU may be on an Extended Leave Suspension no more than twice per calendar year and the total suspension time in any calendar year shall not exceed twenty-six (26) weeks.
- i. Properly maintain trash and yard waste cart in a secure location and be responsible for the cleanliness and safekeeping of the cart(s). An RDU who, through negligence or intentional acts, causes damage to a cart shall be charged for the repair or replacement of the cart.
- j. Contact the designated hauler for all customer service requests or inquiries.
- k. Make certain that the RDU has a street address number on the dwelling and garage, if applicable, of the RDU in a manner and place that is easily and readily discernible from the collection location by the designated hauler as indicated in SPLC Chapter 71.02 (4).

Sec. 220.05

Base Level Service And Additional Service Options.

- a. Base Level Service: Each RDU shall be charged one hundred percent (100%) of the fixed costs and one hundred percent (100%) of the variable costs for services. Base level service includes pickup of trash in one of the service levels listed below and one free cart change per year. In 2018, the base level service includes pickup of one bulky waste item and one holiday tree. In 2019 and after, the base level service includes pickup of two bulky waste items and one holiday tree for RDUs who choose a small trash cart, and three bulky waste items and one holiday tree for RDUs who choose a medium or large trash cart. The rates for additional service options shall be adopted by the council by resolution. Beginning October 1, 2018, the cost per month, which includes state

and county tax, shall be as follows for base level services:

1. Small trash cart every other week: \$20.28
2. Small trash cart every week: \$23.44
3. Medium trash cart every week: \$ 32.02
4. Large trash cart every week: \$34.15

b. Additional Service Options:

1. An RDU shall pay an additional fee for the disposal of overflow trash bags. An RDU may be charged for an overflow trash bag if its trash cart is not fully closed. An RDU is not required to notify the designated hauler for collection of overflow trash bags.
2. An RDU shall pay an additional fee for a yard waste subscription and must contact the designated hauler to arrange service. The designated hauler shall provide the subscribing RDU a yard waste cart. The subscription entitles an RDU to weekly collection of the contents of the yard waste cart and up to eight compostable bags or yard waste bundles for no additional fee.
3. An RDU who does not purchase a yard waste subscription may set out yard waste in compostable bags or in yard waste bundles for a per bag or per bundle fee. An RDU must provide at least forty-eight (48) hours' advance notice to the designated hauler in order for yard waste to be collected on the yard waste collection day.
4. An RDU shall pay an additional fee for all bulky items not included in the base level services.
5. An RDU may apply to the designated hauler for free walk-up service if all occupants residing at the RDU are physically unable to place trash at the collection location. An RDU who is not eligible for free walk-up service may apply to the designated hauler to receive walk-up service for a fee; there shall be an additional fee for any non-eligible RDU whose collection location is more than 100 feet from the public roadway.
6. An RDU, who fails to comply with set-out requirements, who requests the designated hauler to return to pick up trash or yard waste or requests off day service pickup from the designated hauler may receive such service for a fee.
7. Each RDU is entitled to receive one cart change per year for no fee. Generally, a cart change occurs when an RDU changes the base service level. If an RDU receives a second change in any calendar year, the RDU shall be charged a fee for that change. Replacement of a lost, stolen, or damaged cart due to misuse or neglect by the RDU shall be considered a cart change.

Sec. 220.06

Payment of Charges. Each RDU shall receive a quarterly coordinated collection invoice from a designated hauler. Each RDU shall be billed for all trash collection costs. Failure to pay for services shall result in the special assessment of the costs of those services, along with any applicable fees, penalties or administrative costs against the real property on which the RDU is situated.

Sec. 220.07

Delinquent Accounts.

- a. Payment options. Each RDU owner must pay the total amount set forth in the quarterly coordinated collection invoice on or before the due date listed on the invoice. Failure to make payment by the due date listed on the invoice may result in a late fee of five percent (5%) of the total amount due and owing and additional monthly late fees of five percent (5%) of the total amount due and owing for the first ninety (90) days of nonpayment.
- b. Delinquent accounts. Accounts shall be considered delinquent when any portion of the balance due exceeds ninety (90) days past due.
- c. Notice to City. The designated hauler shall notify the City of delinquent accounts.
- d. Notice to Owner. The city shall notify property owners deemed to have delinquent accounts. Property owners shall have thirty (30) days to make payment in full to the City. Such notice shall include the name of the designated hauler, the time period for which the account is delinquent, the amount of delinquency and a list of the delinquent items on the account. Such notice shall also state that if the City does not receive payment within thirty (30) days, the amount owed shall be assessed to the property.
- e. Assessment of delinquent accounts. The delinquent account shall be a debt owed to the city and any unpaid costs shall be collected by special assessment under the authority of Minn. Stat. § 443.29 and the Saint Paul City Charter by the procedure outlined in Chapter 60 of the Saint Paul Administrative Code. Unpaid costs shall not include additional interest beyond that charged in section (a) above. Action under this section does not preclude any other civil or criminal enforcement procedure.

Sec. 220.08

Severability. In the event that any section, subsection, sentence, clause or phrase of this chapter is for any

reason held to be invalid by a court of competent jurisdiction, the invalidity shall extend only to the section, subsection, sentence, clause or phrase affected, and shall not affect the validity of the remaining portions of this article.

Section 2

~~This Ordinance shall take effect and be in force beginning October 1, 2018, following its passage, approval and publication.~~

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.

EXHIBIT B

CHAPTER 8. - INITIATIVE, REFERENDUM, AND RECALL

Sec. 8.01. - Initiative, referendum and recall.

The people shall have the right to propose ordinances, to require ordinances to be submitted to a vote, and to recall elective officials by processes known respectively as initiative, referendum and recall.

Sec. 8.02. - Petition.

Initiative, referendum or recall shall be initiated by a petition

- (1) signed by registered voters of the city equal in number to eight (8) percent of those who voted for the office of mayor in the last preceding city election in the case of initiative or referendum, or
- (2) signed by registered voters of the city equal in number to twenty (20) percent of those who voted for the office of mayor in the last preceding city election in the case of recall of the office of mayor, or
- (3) signed by registered voters of the relevant council ward equal in number to twenty (20) percent of those who voted for the relevant office of councilmember in the last preceding city election or fifteen (15) percent of the registered voters in the relevant council ward, whichever number is greater.

(C.F. No. 10-635, § 2, 7-21-10; Ord. No. 12-9, § 2, 3-28-12)

Sec. 8.02.1.

A petition may consist of one or more papers, but each paper circulated separately shall contain at its head or attached to it the statement required by Section 8.04, Section 8.05 or Section 8.07, as the case may be.

Sec. 8.02.2.

Each signer of the petition shall write thereon the petitioner's name and the street number and council ward or legislative district and precinct designation of the petitioner's residence.

(Ord. No. 17665, § 6, 6-29-89; Ord. No. 12-9, § 2, 3-28-12)

Sec. 8.02.3.

Each separate page of the petition shall have appended thereto a certificate, verified by oath, that each signature was affixed by the person purporting to have signed the same in the presence of the person making the certificate. The person making the certificate shall be a resident of the city.

Sec. 8.02.4.

Any person whose name appears on a petition may withdraw his or her name by a statement in writing filed with the city clerk before the clerk advises the council as to the sufficiency of the petition. Any name appearing on any petition which does not comply with the foregoing requirements, except as to council ward or legislative district and precinct designation, shall be stricken, and no names shall be counted which have not been verified.

(Ord. No. 17665, § 6, 6-29-89; Ord. No. 12-9, § 2, 3-28-12)

Sec. 8.03. - Determination of sufficiency.

Any petition seeking initiative, referendum and recall hereunder shall be deemed received by the council when it is filed with the city clerk, for which filing there shall be no fee. Immediately upon receipt of the petition the city clerk shall examine the petition as to its sufficiency and report to the council within twenty (20) calendar days, except that in the case of a recall petition it shall be thirty (30) calendar days. Upon receiving the report, the council shall determine by resolution the sufficiency of the petition.

Sec. 8.04. - Initiative.

Any ordinance may be proposed by a petition which shall state at the head of each page or attached thereto the exact text of the ordinance sought to be proposed. If the council fails to enact the ordinance without change within sixty (60) days after the filing of the petition with the city clerk, it shall be placed on the ballot at the next general election in the city which occurs on or after the 120th day from the filing of the petition with the city clerk. If a majority of those voting on the ordinance vote in its favor, it shall become effective immediately.

Editor's note— Section 8.04 amended by Ord. No. 17339, C.F. 86-320, adopted by city council April 10, 1986, pursuant to Minnesota Statutes, Section 410.12.

Sec. 8.05. - Referendum.

Any ordinance or resolution passed pursuant to subdivisions (5) or (6) of Section 6.03.3 of this Charter may be subjected to referendum by a petition filed within forty-five (45) days after its publication. The petition shall state, at the head of each page or in an attached paper, a description of the ordinance or resolution involved. Any ordinance or resolution upon which a petition is filed, other than an emergency ordinance, shall be suspended in its operation as soon as the petition is found sufficient. If the ordinance or resolution is not thereafter entirely repealed, it shall be placed on the ballot at the next election, or at a special election called for that purpose, as the council shall determine. The ordinance or resolution shall not become operative until a majority of those voting on the ordinance or resolution vote in its favor.

If a petition is filed against an emergency ordinance, the ordinance shall remain in effect, but shall be placed on the ballot at the next election or a special election called for that purpose, and shall be repealed if a majority of those voting on the ordinance vote to repeal it.

Editor's note— Section 8.05 amended by Ord. No. 16213, C.F. 26813, C.F. 268534, adopted by the city council Mar. 24, 1977, pursuant to Minnesota Statutes, Section 410.12.

Sec. 8.06. - Repeal of ordinances or resolutions submitted to voters.

No ordinance adopted by the voters on initiative or ordinance or resolution approved by referendum shall be repealed within one year after its approval.

Editor's note— Section 8.06 amended by Ord. No. 16213, C.F. 268534, adopted by the city council March 24, 1977, pursuant to Minnesota Statutes, Section 410.12.

Sec. 8.07. - Recall.

Any person holding an elective office, other than an office created by special law, may be removed by recall. The petition shall state at the head of each page a demand for the removal of the officer, the office held, and a brief description of the grounds for recall.

(Ord. No. 17665, § 6, 6-29-89)

Sec. 8.07.1.

If the council finds a recall petition to be sufficient, it shall notify the officer involved and announce the same at its next meeting. Any officer so named may resign within five (5) calendar days after being notified as to the sufficiency of the petition. If the officer does not resign, a recall election shall be held.

(Ord. No. 17665, § 6, 6-29-89)

Sec. 8.07.2.

Within ten (10) days after the council has found the petition to be sufficient, it shall order a special election to be held within sixty (60) days to determine whether the officer shall be removed. If a majority of those voting on the question shall vote in favor of removal, the office shall be deemed vacant and filled as provided in this Charter.

(Ord. No. 17665, § 6, 6-29-89)

Sec. 8.07.3.

If any election is to be held within ninety (90) days and not less than thirty (30) days after filing of the petition, the council shall postpone the recall election until that time.

Sec. 8.07.4.

No recall petition shall be filed against any officer during the first or the last six (6) months of the officer's term.

(Ord. No. 17665, § 6, 6-29-89)

Sec. 8.07.5.

In the published notice of any recall election there shall be printed in not more than two hundred (200) words the grounds for recall stated in the petition, and the officer sought to be recalled may respond in not more than two hundred (200) words.

Sec. 8.08. - Disposition of insufficient petitions.

If the council determines that the petition is insufficient or irregular, the city clerk shall deliver a copy of the petition to the person or persons therein named to receive it, together with a written statement of its defects. The persons circulating the petition shall be given thirty (30) days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the council finds that the petition is still insufficient or irregular, the city clerk shall file the petition in the clerk's office and notify the persons previously notified of the defects. The final finding of insufficiency or irregularity shall not prejudice the filing of a new petition for the same purpose nor, in the case of an initiated or referred ordinance or resolution, shall it prevent the council from referring the ordinance or resolution to the voters at the next regular or special election at its option.

(Ord. No. 17665, § 6, 6-29-89)

Editor's note— Section 8.08 amended by Ord. No. 16213, C.F. 268534, adopted by the city council March 24, 1977, pursuant to Minnesota Statutes, Section 410.12.

EXHIBIT C

October 31, 2018

TO: Members of the Saint Paul City Council

FROM: Joseph Mansky
Ramsey County Elections Manager

SUBJECT: CERTIFICATION OF PETITION EXAMINATION

On October 16, 2018, a petition to authorize a referendum on Ordinance 18-39 was submitted to my office. Based on our examination of the petition, we have verified that 5,541 of the signatures are valid. A total of 4,932 valid signatures is required.

The following is a summary of the results of our examination of the petition.

Number of accepted signatures: 5,541
Number of rejected signatures: 928
Total number of signatures on petition: 6,469

Reasons for rejections:

Voter not listed on public information list – 539
Voter name does not match public information list – 24
Voter address does not match public information list – 188
Voter year of birth does not match public information list – 106
Voter status not active – 39
Voter name, address, or year of birth illegible – 31
Duplicate signatures – 1

Therefore, I hereby certify that the petition contains the number of valid signatures of registered voters in the city required by Section 8.02(1) of the City Charter.

cc: Mayor Carter
Shari Moore
Rachel Tierney

EXHIBIT D



Legislation Text

File #: RES 18-1922, **Version:** 1

Finding the Petition for a referendum of Ord 18-39 is legally sufficient but that the subject matter is not appropriate to submit to the electorate.

WHEREAS, Saint Paul City Charter Section 8.01 states that “[t]he people shall have the right to ... require ordinances to be submitted to a vote ... by a process known as ... referendum”; and

WHEREAS, a petition seeking a referendum to repeal Ord. 18-39 which created Chapter 220 of the Saint Paul Legislative Code in order to regulate coordinated collection of certain residential trash in Saint Paul, was filed with the Office of the City Clerk on October 16, 2018 (the “Petition”); and

WHEREAS, City Charter Chapter 8 requires a petition for referendum to be signed by registered voters equal in number to eight (8) percent of those who voted for the office of mayor in the last preceding city election; and

WHEREAS, the last preceding city election was held November 7, 2017; and

WHEREAS, according to the Ramsey County Elections Manager, there were 61,646 first choice votes cast for Mayor in the 2017 election, meaning that the required number of signatures for the Petition is 4,932; and

WHEREAS, the Ramsey County Elections Manager, who supervises elections on behalf of the City, has reported to the Council that Petition signatures have been checked for compliance with the requirements of Chapter 8 of the Saint Paul City Charter; and

WHEREAS, the Ramsey County Elections Manager reports that the Petition contains 6,469 signatures, and that 5,541 of those comply with the Charter’s requirements; and

WHEREAS, Minnesota Statute § 443.28, part of the Rubbish Removal chapter of Minnesota Statutes, requires a City to adopt rates for rubbish removal by ordinance; and

WHEREAS, Minnesota Statute § 115A.94 authorizes a city to organize collection as a municipal service by various methods including by negotiated or bidded contract, and creates a required procedure a city must follow to organize collection of trash; and

WHEREAS, Minnesota Statute § 115A.94 further states that once an agreement is made between a city and participating haulers, the city “shall” use its appropriate local controls to establish coordinated collection; and

WHEREAS, after following the statutorily-required process, on November 8, 2017 in RES 17-1776, the City Council authorized the execution of the Agreement (“Agreement”) between the City and a Consortium of then-licensed trash haulers (the “Consortium”) to collect residential trash for approximately 78,000 residential units in the City of Saint Paul; and

WHEREAS, following the City's execution of the Agreement, the City adopted Ord. 18-39 creating Leg. Code Chapter 220; and

WHEREAS, in compliance with Minnesota Statutes §§ 443.28 and 115A.94, Ord 18-39 established regulations for the collection of trash and set the rates to be charged to residential owners for the collection of trash; and

WHEREAS, the Agreement, has a number of inter-related terms that govern coordinated collection including agreed-upon rates, a requirement that the Consortium bill residents directly, and a requirement that the City pay Consortium Members for outstanding invoices they are unable to collect from residents; and

WHEREAS, the office of the City Attorney has reviewed the requirements and procedures for establishing coordinated collection and has provided a legal analysis and opinion to the City Council regarding whether the subject matter of the Petition is appropriate to submit to the electorate; now, therefore, be it

RESOLVED, that the City Council hereby adopts the report of the Ramsey County Elections Manager and finds that the Petition is sufficient to satisfy the minimum signature requirements under City Charter Chapter 8; and be it

FURTHER RESOLVED, based upon the legal opinion of the City Attorney, the City Council finds that the provision of the City Charter allowing referendum for the subject matter of the Petition is preempted by Minnesota Statutes §§ 443.28 and 115A.94, is an unconstitutional interference with the Agreement between the City and the Consortium, and conflicts with state public policy; and be it

FINALLY RESOLVED that, based on these findings, the City Clerk is hereby directed not to submit Ord. 18-39 as a ballot question to the County Auditor for placement on the ballot for the next election.

EXHIBIT E

**RESIDENTIAL SOLID WASTE, YARD WASTE AND BULKY WASTE
COLLECTION AGREEMENT**

This Contract is made and entered into this 14TH day of Nov., 2017, by and between the City of Saint Paul, a municipal corporation ("City") and St. Paul Haulers, LLC, a Minnesota Limited Liability Company ("Consortium").

RECITALS

WHEREAS, Saint Paul Legislative Code chapter 34.11 requires that Mixed Municipal Solid Waste shall be collected by a licensed refuse hauler; and

WHEREAS, prior to the Effective Date of this Contract, the City has had an "open" system for trash collection where residents are required to negotiate individually with licensed haulers to obtain trash collection and disposal service; and

WHEREAS, on July 26, 2017, the Saint Paul City Council passed Resolution RES 17-203 to implement an organized solid waste collection program for its residents pursuant to MN Statute 115A.94 in order to ensure that all residents have consistency of service and pricing, to reduce truck traffic, and to reduce pollution; and

WHEREAS, pursuant to Resolution RES 17-203, the City is authorized to enter into this Contract and in doing so is validly exercising the power of the City; and

WHEREAS, City wants to ensure that City residents receive high quality and reliable trash services; and

WHEREAS, as part of the City's implementation of organized collection, the City required that all licensed haulers within the City create one legal entity (a consortium) for the sole purpose of ensuring consistent, reliable, and high quality service for the residents of St. Paul, prior to entering into this Contract with the City; and

WHEREAS, the Consortium is a limited liability company, comprised of Consortium Members which are residential solid waste collectors licensed to do business in the City, as identified on Exhibit 1, and have contracted with the Consortium to provide the Services under this Contract on behalf of the Consortium; and

WHEREAS, the Consortium is responsible to ensure that the Services under this Contract are provided in compliance with the terms of this Contract; and

WHEREAS, it is the intent of the City and the Consortium that the Consortium be responsible for the Services under the Contract, but that the Consortium as an entity not be liable for the acts or omissions of individual Consortium Members; and

WHEREAS, the Consortium will enter into subcontracts with the individual Consortium Members under which the Consortium Members are individually liable for their own acts and omissions; and the City, Consortium, and other Consortium Members are not liable for the acts or omissions of the Consortium, other Consortium Members or any other parties; and

WHEREAS, the City and the Consortium are desirous of entering into this Contract, under the terms of which Consortium Members shall have an exclusive Agreement for a specified period of time for the collection of residential solid waste as provided herein; and

WHEREAS, the City has determined and recognizes that the Consortium and the Consortium Members have expended substantial resources in connection with this Contract and to fulfil their respective responsibilities in providing high quality waste collection and disposal services to City residents, all of which should greatly benefit the City; and

WHEREAS, the City and the Consortium have agreed to the conditions, terms, rates, provisions and considerations under which Consortium shall perform such solid waste collection and disposal services as herein set out, and for the compensation as hereinafter provided, and the City has deemed it to be in the best interest of the City and the residents of the City to enter into this Contract upon such terms and conditions set forth herein;

NOW, THEREFORE the City and the Consortium agree as follows:

Definitions and Abbreviations

The following terms, whenever used in this Contract, shall have the meanings set forth in this Section unless otherwise limited or expanded.

Additional Service Options

The following collection services which are in excess of or in addition to the Base Level Services:

- Overflow Trash Bags beyond the contents of the first Trash Cart.
- Yard Waste Subscription.
- Compostable Bags of Yard Waste without Subscription.
- Bulky Waste in addition to Bulky Base Service per calendar year.
- Walk-up Service for non-eligible (Residential Dwelling Unit) RDU pursuant to Section 2.11.7, including extra fee for over 100 foot walk-up.
- Return Fee or Off Day Service Pickup.
- Cart Size Change Fee (2nd or more per calendar year, per owner).
- Extra Cart.

Additional Service Options can be provided to residents at an additional cost as provided in Exhibits 4a and 4b.

Additional Service Option Costs

The cost for Additional Service Options charged to RDUs by Consortium as indicated in Exhibits 4a and 4b.

Base Level Services

The following trash and disposal services common to all Residential Dwelling Units (RDUs) provided by Consortium Members pursuant to this Contract:

- Trash Collection and disposal at service level selected by RDU.
- Bulky Base Service.
- Walk-up Service pursuant to Section 2.11.6.
- Regular billing of individual RDU's for Services provided by Consortium Members pursuant to this Contract.

Base Level Price

The monthly cost to each RDU by the Consortium Member for providing Base Level Services:

- Trash Collection Costs, which is further divided into the fuel portion and non-fuel portion.
- Bulky Base Costs.
- Billing Costs.
- Disposal Costs.

Billing Costs

The cost per RDU for the Consortium to perform billing services including customer service related to billing.

Bulky Base Costs

The cost of Bulky Base Services per month per RDU.

Bulky Base Service

The annual Collection of (a) two or three (as designated in Exhibit 4a) Bulky Waste items and (b) one Holiday Tree no more than six feet in length. In the event that the Trash Disposal Facility initiates a fee for disposal of Holiday Trees, Holiday Tree collection shall no longer be included in Bulky Base Services but may be offered at an additional cost as a pass through to be negotiated by the parties.

Bulky Waste

Large items from RDUs that may not be put into Carts because they are too large or heavy including but not limited to those items listed as bulky items within Exhibit 4b. Bulky Waste does not include Unacceptable Materials as that term is defined below and is subject to further limitations as set forth on Exhibit 4a and 4b.

Carts

The wheeled and lidded 30-38 gallon, 60-68 gallon, or 90-98 gallon Trash containers provided by the City and Yard Waste containers provided by the Consortium in which Trash and Yard Waste can be stored and collected on the designated collection day.

City	The City of Saint Paul, a home rule charter city organized under the laws of the State of Minnesota.
Collection	The collection of all Trash, Yard Waste, Bulky Waste, and other Additional Service Options.
Collection Hours	The time period during which Residential Collection Services is authorized by the City which shall be 6:00 a.m. to 8:00 p.m., Monday through Friday, or Monday through Saturday during weeks that contain a Holiday.
Collection Location	Placement of the Carts, Bulky Waste and Yard Waste at the closest accessible location along a public street or alley or along a private roadway subject to the requirements of Section 2.1.12 in order for Collection Vehicles to provide safe and efficient Residential Collection Services but no more than four (4) feet from the curb or alley-line. Collection Location shall not include locations along private roadways which do not meet the requirements of Section 2.1.12.
Collection Vehicle	Any vehicle licensed and inspected as required by the state and county and utilized by a Consortium Member to provide Residential Collection Services.
Collection Zone	Consortium-designated area within a collection day that is serviced by each Consortium Member.
Composting Facility	Facility licensed to process Yard Waste and/or source separated compostable materials in conformance with state and local regulations.
Compostable Bags	Paper Kraft bags or compostable plastic bags that meet ASTM Standard Certification for Compostable Plastics (D6400) within a composting operation as required by Minnesota Statute (Minnesota Statutes Section 115A.931, Subd. (c) and Minnesota Statutes 325E.046) for collection of any Yard Waste that is not contained in a Yard Waste Cart.
Consortium	St. Paul Haulers, LLC, is an independent legal entity acting in its individual capacity for the collective benefit of its members whose members consist of residential waste collectors licensed to do business in the City, and listed on Exhibit 1.
Consortium Member	A member of the Consortium licensed by the City to provide Residential Collection Services in the City. Listed on Exhibit 1.

Consortium Contract Officer	The individual who is the single point of contact identified by the Consortium for communication with the City regarding issues of contract management, interpretation or amendment.
Consortium Customer Service Point of Contact	The individual (and one backup individual) who is the single point of contact identified by the Consortium for communication with the City regarding customer service issues or complaints received by the City related to the Services.
Consumer Price Index (CPI-U)	The Midwest Consumer Price Index for all Urban Customers for the Midwest Region – All items less energy https://www.bls.gov/regions/midwest/cpi-summary/ro5xg01a.htm
Contract	This Contract between the City of Saint Paul and the Consortium covering the performance of the Services, plus any exhibits hereto.
Coordinated Collection	The organized solid waste collection program for City residents pursuant to MN Statute 115A.94 that ensures all residents have consistency of service and pricing, and is intended to reduce truck traffic and pollution.
Disposal Costs	The cost charged to each RDU for disposing of Trash at the Trash Disposal Facility.
Educational Tag	A written document attached to a Cart by a Consortium Member to inform an RDU of a specific policy or protocol related to the Services.
Electronic Waste	Any discarded consumer electronic device with a circuit board including, but not limited to: televisions, computers, laptops, tablets, computer monitors, peripherals (e.g., keyboard, printer, mouse, etc.), cell phones, PDAs, DVD recorders/players and video cassette recorders/players, and fax machines as specifically referenced in Minnesota Statutes Section 115A.1310.
Escrow Account	The Account held by each Consortium Member in which each Consortium Member deposits a fixed amount of money with an escrow agent who will deliver funds owed by the Consortium Member to the City under the terms of this Contract.
Fuel Surcharge	An increase in the Fuel portion of Trash Collection Costs based on the average price of fuel per gallon based on the Midwest PADD 2 Diesel (On-highway) Ultra Low (15ppm and under) Sulfur fuel price, referenced on http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r20_a.htm .

Hazardous Waste

Any hazardous, biohazardous, infectious, radioactive, flammable, explosive, biomedical, or toxic waste as defined by applicable laws or regulations, including, without limitation, any hazardous waste regulated under the Resource Conservation & Recovery Act, 42 U.S.C. §§6901 *et seq.*, and associated regulations, 40 C.F.R. Part 261; or the Toxic Substance Control Act, 15 U.S.C. §§2601 *et seq.*, and associated regulations, 40 C.F.R. Part 761; or the following materials as described in Minnesota Statutes §116.06, subdivision 11:

“Hazardous Waste means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of Hazardous Waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous Waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.”

Holiday(s)

The following six (6) major Holidays observed each year: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Holiday Tree

A tree no larger than six (6) feet in length, twenty (20) pounds in weight which is set at the Collection Location for Collection between January 1st and January 15th of each year.

Letter of Credit

A letter issued by a bank on behalf of the Consortium Member to serve as a guarantee to deliver funds owed by such Consortium Member to the City under the terms of this Contract.

Missed Collection

The failure of the Consortium to provide Residential Collection Service to an RDU within the City during collection hours on the scheduled day of collection provided that the Cart is set out

properly by the RDU and Residential Collection Services have not been otherwise excused.

Mixed Municipal Solid Waste	<p>Has the meaning prescribed in Minn. Stat. 115A.03, subd. 21, which states:</p> <ul style="list-style-type: none">(a) “Mixed Municipal Solid Waste” means garbage, refuse, and other Solid Waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection; except as provided in paragraph (b).(b) Mixed Municipal Solid Waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.
Opt-In	<p>An option for attached dwelling units with more than four units that have carted service to participate in Services under the Contract. Once an association has chosen to participate, that association may not withdraw.</p>
Organics Waste	<p>Food waste, fish and animal waste, plant materials, non-recyclable paper products, yard waste, and other materials that readily degrade.</p>
Overflow Trash Bags	<p>Extra bags of Trash that do not fit into the Trash Cart which are set out by RDU’s at the Collection Location next to the Trash Cart. Overflow Trash must be placed in a bag by the RDU no larger than 35 gallons, less than 40 pounds, and must be securely closed by the RDU.</p>
Overflow Yard Waste Bags	<p>Extra Compostable Bags of Yard Waste that do not fit into the Yard Waste Cart which are set out by RDU’s at the Collection Location next to the Yard Waste Cart. Overflow Yard Waste must be placed in a Compostable Bag which is no larger than 35 gallons, less than 40 pounds, and must be securely closed.</p>
R & E Center	<p>The Ramsey/Washington Recycling and Energy Center which is currently designated as the Trash Disposal Facility by Ramsey County, and is a waste processing center located in Newport, MN.</p>
Residential Dwelling Unit (RDU)	<p>Any dwelling unit in any one-, two-, three-, or four-unit building within the City, and other dwellings expressly agreed upon in writing by the City and the Consortium which are located within</p>

the City that are eligible for Services under this Contract. RDU does not include four-unit dwellings owned by the Saint Paul Public Housing Authority, unless the Saint Paul Public Housing Authority chooses to opt-in for such units. This includes attached dwelling units, regardless of the number of units, using carted service (i.e. no dumpster) that Opt-In. Services to RDUs shall be billed on an individual basis pursuant to this Contract and not as part of a homeowners' association.

Residential Collection Services	The regular collection of Trash, Yard Waste, and Bulky Waste as provided in this Contract from RDUs which normally results from the operation of a household.
Services	Residential Collection Services including the collection, billing, reporting, and other administrative responsibilities of the Consortium to Residential Collection Services.
Special Waste	Waste that requires special management or treatment, including, but not limited to, auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, lead acid batteries, motor and vehicle fluids and filters, asbestos containing materials, and other materials that require special handling or disposal.
Source-Separated Recyclable Materials	Recyclable materials, including commingled recyclable materials that are separated by the generator and separately placed for collection by the City's designated recyclable materials collection contractor.
Suspended Collection	Stopping of Services by the Consortium as a result of an extended leave.
Trash	Garbage, refuse, and other discarded waste materials in solid form resulting from residential activities as generated by RDU's in the normal and ordinary course, specifically excluding Unacceptable Materials, Bulky Waste, Yard Waste, Source-Separated Recyclable Materials
Trash Disposal Facility	The facility(s) where Trash collected under this Contract is deposited.
Trash Collection	Taking of Trash by the Consortium placed at the Collection Location by an RDU at the RDU chosen service level.
Trash Collection Costs	Cost for Base Level Services not including Bulky Base Costs, Billing Costs, Disposal Costs, or taxes.

Trash Collection Day Designated collection day of the week for Trash.

**Unacceptable
Materials**

Items which a RDU is prohibited from placing for collection pursuant to this Contract from any of the specific waste streams (e.g. Trash, Yard Waste, Bulky Waste) as set forth below and any other items that are not allowed because they may contaminate the specific waste stream, cause an unsafe handling/management situation, requires special handling, management or disposal or otherwise may harm the environment. Examples include, but are not limited to:

- Prohibited Trash: biomedical waste such as hypodermic needles, Hazardous Wastes, Special Waste, Source-Separated Recyclable Materials, Electronic Waste, etc.
- Prohibited Yard Waste: Prohibited Trash items referenced above and any items not specifically identified in the definition of Yard Waste.
- Prohibited Bulky Waste: Prohibited Trash items referenced above (except Electronic Waste) and any items not specifically identified as being accepted.
- Hazardous Materials.

Walk-up Service

The collection of Trash Carts from a location other than the Collection Location for the convenience of the RDU. Walk-up Services specifically exclude Bulk Waste, Yard Waste and any other waste stream not explicitly permitted in a Trash Cart under this Contract.

Vacant RDU

An RDU that has been identified as vacant by the City and notice has been provided to the Consortium of that vacancy.

Yard Waste

The materials prescribed in Minnesota Statutes (Minnesota Statutes 115A.03, Subdivision 36) generated by RDU's in the normal and ordinary course:

"Yard Waste" means garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings."

Yard Waste does not include dirt, rocks, tree stumps, or any woody items more than three (3) inches in diameter or three (3) feet in length.

Yard Waste Bundle	Yard Waste that is fastened together which shall not exceed forty (40) pounds or two (2) feet in diameter and three (3) feet in length.
Yard Waste Cart	A 60-68 gallon Cart provided by Consortium or a Consortium Member to RDU's who purchase a Yard Waste Subscription.
Yard Waste Collection	The pick-up, transportation and delivery to an appropriate processing facility of Yard Waste discarded in a 60-68 gallon Yard Waste Cart, and/or in a Compostable Bag or Yard Waste Bundle not in excess of forty (40) pounds.

1 Term of Contract

The Effective Date of this Contract is the date the City and the Consortium have executed this Contract. The Commencement Date of this Contract shall be the date that the Consortium commences providing Services pursuant to this Contract which shall begin either between October 1, 2018 and October 31, 2018 or April 1, 2019 and April 30, 2019. The Term of this Contract shall be five years from the Commencement Date and may be renewed thereafter for one additional two-year term upon the parties' mutual agreement and consistent with the terms of this Contract.

2 Scope of Services

In consideration of the mutual obligations as set forth in this Contract, the Consortium agrees to provide the Services as set forth below.

2.1 Residential Collection Services

- 2.1.1 Subject to the terms of this Contract, Consortium shall provide all Services to all RDUs. Consortium will provide all materials, equipment, labor, supervision, and other activities necessary to perform such Services provided however that the City shall be responsible for and shall deliver to each RDU prior to the Commencement Date a designated Trash Cart. Services shall be provided to all RDUs within the City unless expressly excluded under this Contract.
- 2.1.2 Each party shall comply with all federal, state and local laws related to its performance under this Contract.
- 2.1.3 The Consortium and the Consortium Members shall comply with all road weight and bridge restrictions, and shall immediately inform the City of any notices or citations for exceeding such restrictions. The City retains the right to inspect and/or weigh Collection Vehicles at any time to confirm compliance with these obligations.
- 2.1.4 RESERVED.

- 2.1.5 The City reserves the right to improve any street or alley, which may prevent the Consortium from using its accustomed route or routes for collection. No compensation will be made by the City for this interference. When construction work is being performed on the roadway or alley where Consortium provides Residential Collection Services the RDU shall place Trash Carts, Yard Waste Carts, Yard Waste Bundles, Compostable Bags and Bulky Waste as close as practical to the nearest point of collection which is accessible to Collection Vehicles.
- 2.1.6 In providing the Services identified herein, the Consortium and its Members shall be obligated to protect all public and private utilities whether occupying public or private property or not. If such utilities are damaged by reason of the operations of the Consortium Member, the Consortium Member will be responsible to repair or replace same or, failing to do so promptly, the City shall cause repairs or replacements to be made and the costs incurred by the City will be deducted from the responsible Consortium Member's Letter of Credit or Escrow Account in accordance with the provisions of this Contract. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the responsible Consortium Member assigned to the area where the incident occurred and report that information to the City.
- 2.1.7 The Services provided by the Consortium pursuant to this Contract are for the collection of Trash, Yard Waste and Bulky Waste generated in the normal and ordinary course. In the event of any increased volume of Trash, Bulky Waste or Yard Waste resulting from a tornado, flood, ice storm, snowstorm, disaster, act of God or other Force Majeure Event, the Consortium and the City may negotiate a separate Contract to provide such services. If such contract is not negotiated between the Consortium and City, the Consortium's sole responsibility shall be to reestablish regular routes and schedules for the Services as soon after the event as possible. The Consortium shall resume performance of Services as soon as commercially practical after a Force Majeure Event. The Collection of Excess Trash, Bulky Waste and Yard Waste generated in connection with a Force Majeure Event shall not be the responsibility of the Consortium pursuant to this Contract.
- 2.1.8 Consortium will not be responsible for failure to perform a scheduled pickup, when prevented from doing so as the result of an undue accumulation of snow and/or other dangerous condition and/or other catastrophic conditions and Force Majeure Events, including but not limited to imposition of laws or governmental orders, fires, and acts of God. In such circumstances, Consortium shall notify the City by the end of the service day via email of the Consortium's inability to provide scheduled collection and the estimated time to reestablish regular routes and schedules for the Services as soon after the event as possible. Consortium shall communicate by the end of the service day of the reason for non-collection to the RDU (whether by educational tag, email, or telephone, unless such methods are impractical, in which case notification by website or otherwise is acceptable.)
- 2.1.9 The Consortium shall provide in its governing documents that existing contracts between Consortium Members and RDUs to collect Trash, Bulky Waste and Yard

Waste from RDUs shall be terminated as of the Commencement Date, provided that the Consortium Member is not owed unpaid balances under the existing contract, and that any amounts paid to Consortium Members for services that have not been provided under a contract that is terminated under this provision shall be refunded by the applicable Consortium Member who provided service prior to the Commencement Date. Residents may pay their current hauler on a pro-rated basis for service up through the Commencement Date of this Contract. Each RDU shall only pay for services received prior to the Commencement Date and will be reimbursed for payments made for services which will not be rendered after the Commencement Date. All unpaid balances for existing account shall be the responsibility of the RDU.

- 2.1.10 RDUs from townhomes meeting the criteria of this Contract may Opt-In to receive Residential Collection Services under this Contract.
- 2.1.11 The Consortium and City agree that the Consortium and its Consortium Members are permitted to co-collect, commingle and transport materials generated from locations or customers outside of the City limits or from non-eligible RDUs or businesses within the City with materials (e.g., Solid Waste, Yard Waste) collected under this Contract. The Consortium will be responsible for providing a tabulation of tonnages collected under this Contract, and this will be provided/noted in reports required under Section 4.
- 2.1.12 The Consortium shall be required to provide the collection services herein to all RDUs located on public roadways or private roadways meeting the requirements of this Section 2.1.12 and which are accessible to standard solid waste Collection Vehicles. The City shall maintain all City owned roadways and RDUs shall maintain all public alleys and private roadways in a condition that affords safe access by Consortium's Collection Vehicles. The City shall require RDUs to place Trash, Yard Waste and Bulky Waste at the Collection Location for collection in accordance with the terms and conditions of this Contract. Consortium shall not be required to collect from private roadways unless the RDU and all owners of the private roadway have signed and delivered to the Consortium Member a release in the form attached as Exhibit 10. Until the required release is provided by the RDU and roadway owner(s), the RDU's Collection Location shall be the closest accessible location along a public street or public alley.
- 2.1.13 If Trash, Yard Waste or Bulky Waste to be collected is not accessible after making reasonable attempts to collect, after contacting the RDU and getting RDU approval for an additional pick-up, Consortium shall have the right to charge the RDU for an additional pick-up, provided that the Consortium shall communicate the reason for non-collection to the RDU (whether by educational tag, email, telephone or otherwise). The Consortium shall not be deemed to be in breach of this Contract for the failure to collect any Trash, Yard Waste, or Bulky Waste in the event the Consortium Member did not have or was denied access to the materials as provided herein and complied with the notice requirements of this

Section. Consortium is not obligated to provide an additional pick-up if a RDU does not approve additional charges.

- 2.1.14 The Consortium shall provide collection of Yard Waste Collection and Bulky Waste Collection as ordered by the RDU. Collection of Overflow Yard Waste Bags and Bulky Waste in excess of Bulky Base Services shall be provided in addition to the Base Level Services upon request by RDU, on their next Collection Day provided that the RDU has complied with its obligations related to placement of materials. RDU's request must be made to the responsible Consortium Member a minimum of forty-eight (48) hours prior to their scheduled Collection day and Consortium shall pick-up such items within seven (7) business days of any such order by a RDU.

2.2 Information Required for Implementation

- 2.2.1 Consortium will provide the City with a breakdown by number of RDUs to be serviced by each individual hauler in the Consortium.
- 2.2.2 Within thirty (30) days after the Effective Date, the City shall provide the Consortium with a complete list of all RDUs located within the City and known to the City, to be serviced by Consortium pursuant to this Contract. Such list shall contain, at a minimum, the following information and shall be provided in Excel form: name, service address, billing address (if different from service address). The Consortium will provide the City with a final list of all RDUs who will be eligible for Services that are currently serviced by the Consortium Members within sixty (60) days of the Effective Date. The list shall be provided in an electronic Microsoft Excel format with the following information:
- Name
 - Service Address
 - Billing Address (if different than service address)
 - Trash Cart Size (small, medium, or large)
 - Frequency of pick-up (weekly or every other week)
 - Extra Trash Cart (if applicable)
 - Yard Waste subscription (if applicable)
 - Any additional services currently provided (e.g. walk-up service)
- 2.2.3 The Consortium will propose a draft Collection Zone map for review and comment by the City within ninety (90) days following the Effective Date of this Contract. The Collection Zone map shall be finalized no less than ninety (90) days prior to the Commencement Date. The zone creation process will insure a fair and equitable distribution of accounts that meet the market share requirements of Minn. Stat. § 115A.94, subd. 2d. The City will confirm that the Collection Zones meet the market share requirements of Minn. Stat. § 115A.94, subd. 2d.
- 2.2.4 Consortium will participate and collaborate with City on communication, education, and outreach to RDUs to facilitate a smooth transition to Coordinated Collection as agreed in accordance with Section 2.19.2, but the City shall be

solely responsible for all costs to produce materials associated with the communication, education and outreach. The City will provide the Consortium with all public education and information materials as camera-ready copy, including information to be included in packages to be distributed by the City to RDUs prior to the Commencement Date.

2.3 Collection Equipment and Other Assets

- 2.3.1 When collecting residential Trash, the Consortium shall ensure that its Members use leak-proof industry-standard packer trucks. The packer truck shall then transport the residential Trash to the Trash Disposal Facility.
- 2.3.2 All Collection Vehicles must be capable of Trash, Bulky Waste or Yard Waste collection in the City in all seasons of the year, and in all applicable streets and alleys without damage (beyond ordinary wear and tear) to existing structures or public utility appurtenances.
- 2.3.3 The Consortium shall ensure that the number of Collection Vehicles furnished by the applicable individual Consortium Member must be sufficient for the collection of all residential Trash, Yard Waste, and Bulky Wastes within the Consortium Member's Collection Zone on the designated days and times for Residential Collection Services.
- 2.3.4 All collection equipment shall be kept in a clean and sanitary condition and between April 1 and October 1 of each year, all Collection Vehicles shall be cleaned with pressurized hot water at least once a month, or more often as needed to maintain the appearance of the vehicle, eliminate or control insect infestation, and control odor.
- 2.3.5 The Collection Vehicles shall be painted and numbered, and shall have the Consortium Member's name and telephone number displayed in letters of a contrasting color, at least four (4) inches high or easily readable under normal conditions.
- 2.3.6 The Collection Vehicles shall be maintained in good working order and shall be equipped to meet all federal, state and municipal laws and regulations concerning vehicles used on City streets and alleys and maintained to meet these standards.
- 2.3.7 Consortium shall ensure the Consortium Members use truck equipment that is compatible with Carts. The City shall consult with Consortium prior to Cart purchase and shall select and purchase universal Carts that are compatible with truck equipment currently utilized by the Consortium Members.

2.4 Consortium and Individual Consortium Member Employees

- 2.4.1 The Consortium shall ensure that all employees hired by the Consortium or a Consortium Member, and which provide any portion of the Services, shall be competent, skilled, and as applicable licensed in the performance of the work to which they may be assigned. To the knowledge of the Consortium and the

applicable Consortium Member, no employees shall pose a threat to the safety of the citizens of the City.

- 2.4.2 The employees shall not use loud or profane language or vulgar or derogatory hand signals, and shall be courteous to all persons at all times and perform their work as quietly and quickly as reasonable under the circumstances.
- 2.4.3 No scavenging of Trash, Yard Waste or Bulky Waste of any type or form will be permitted by Consortium Member employees.
- 2.4.4 The Collection Vehicles will remain on public access streets and alleys and shall not drive over private property unless requested by the property owner with mutual agreement of the Consortium.

2.5 Hours and Days of Operation

Residential Collection Services shall not start before 6:00 a.m. or continue after 8:00 p.m., Monday through Friday or a Saturday immediately following an observed Holiday.

2.6 City-Established Collection Days

The Consortium shall use the Collection Day map (as it exists on the Effective Date) from the City's recycling program as a guide for scheduling Trash Collection days and shall have the same collection day for a majority (51%) of RDU's. Where the same collection day as the City's recycling program is not used, the Consortium shall create contiguous Collection Days. The Consortium shall be responsible for determining Consortium Member Collection Zones, in consultation with the City, and each Consortium Member shall be responsible for establishing their respective Collection routes. Within 90 days of the Effective Date, the Consortium will propose a draft Collection Day map for approval by the City. The City shall review the Consortium's proposed Collection Day map and respond to the Consortium within 30 days after its receipt. The Collection Day map shall be finalized and approved no less than ninety (90) days prior to the Commencement Date. The Consortium shall provide ninety (90) days' written notice of any proposed Collection Day changes for City approval, which shall not be unreasonably withheld or delayed, by the City's Director of Public Works. Such Collection Day changes shall only be approved if they are for the purpose of providing improved Services to RDU's. The Consortium shall be responsible for the costs of education to notify RDU's of a changed Collection Day, which shall be at a minimum written notice sent via U.S. Mail. There shall be no return fee charged for failure to set out materials the first week following a Collection Day change.

2.7 Holidays

When a Collection day falls on a Holiday, Services will be delayed by one (1) day. For example if Christmas Day is on a Monday, the Monday's regular Collection services will be Tuesday. Tuesday's Collection services will be delayed until Wednesday, and so on and so forth. Friday Collection services will occur on Saturday unless a Holiday falls on a Saturday or Sunday in which case Services will not be delayed. The City shall be

responsible for properly publicizing any changes in Collection schedules due to the observance of Holidays, including any expenses for educational materials.

2.8 Suspended Collections Due To Extended Leave

Consortium shall suspend Services for extended absence of at least four (4) consecutive weeks from a RDU related to:

- Vacation or other traveling;
- Temporary employment relocation;
- Temporary education relocation;
- Extended absence from home due to health reasons
- Other similar temporary absence.

It is not a legitimate absence for an RDU to apply for a Suspended Collection as a means to avoid required Trash Collection service under this Contract. An RDU must give the Consortium, or applicable Consortium Member, a minimum of two (2) weeks advance notice that the RDU will not require Services for at least four (4) consecutive weeks, but no more than twenty-six (26) consecutive weeks because of an extended leave. The RDU must provide notice of the date on which Services should be suspended and the date on which Services should re-start. An RDU may suspend Services no more than twice per calendar year and the total suspension time in any calendar year shall not exceed twenty-six (26) weeks. The RDU will be credited any payment for Residential Collection Services not provided during the period in which the RDU provided notices of suspended collection. Any credit due for Suspended Collection will be calculated using a pro-rata weekly cost based on the total monthly Trash Collection Costs, plus all disposal fees, taxes, and any Additional Service Option Costs, as outlined per the Contract. Such credit shall be reflected on the next invoice when Service is re-started. If the RDU changes ownership and the RDU has paid for Services in excess of two (2) weeks, provided the Consortium has verified such payment, the former owner shall be sent a refund within thirty (30) days of notifying Consortium to cancel services, subject to any offset for amounts owed to Consortium. RDUs with Suspended Collection shall be directed by the Consortium to store their Cart in a secure, indoor location.

An RDU may not suspend collections under this provision in order to share Services with another RDU. If Consortium denies a request for Suspended Collections, the Consortium shall cooperate with the City's investigation of any RDU's complaint regarding such denial.

2.9 Cart Ownership, Management, Handling, Care and Specifications

- 2.9.1 Trash Carts will be owned, assembled and initially distributed by the City to RDUs, provided that the City shall not intentionally distribute Trash Carts to Vacant RDUs. Consortium is responsible for ongoing Cart Maintenance, reasonable wear and tear excepted, and management as provided in Exhibit 3, and shall not charge a fee to RDUs for Cart maintenance except as otherwise provided herein. Notwithstanding the forgoing, the City is responsible for provision of, payment for, and initial condition of all new and replacement Carts required to

facilitate the Services. The City shall provide to Consortium who shall store an adequate inventory of Carts and parts to allow for replacements as needed and to equip Carts with lids, wheels and axles as required by Section 2.11.3.

- 2.9.2 Consortium shall have no liability and it shall not be a breach of this Contract if Consortium fails to provide any Services as a result of an RDU's failure to properly set out its Cart at the Collection Location. Consortium shall notify an RDU of improper Cart placement or materials improperly set out for Collection, by placing an Educational Tag on the Cart or otherwise notifying the RDU.
- 2.9.3 Base Level Services shall include one Trash Cart size change per owner per calendar year per RDU. RDUs shall pay a fee for the second or any additional Cart change or replacement per RDU per owner per year as provided in Exhibit 4a. A Trash Cart replacement or repair due to damage or loss is considered a Cart change.
- 2.9.4 RDU may request a Trash Cart change by contacting its designated Consortium Member. The applicable Consortium Member shall replace the Trash Cart within seven (7) days of the request; provided that the City has purchased and provided the requisite Cart to the Consortium. Any fee due for the cart change may be included on the next invoice, provided that the RDU has been notified of the fee and approves the cart change in advance.
- 2.9.5 The Cart Management: Procedures & Guidelines is incorporated as part of this Contract as Exhibit 3.
- 2.9.6 Yard Waste Carts will be owned by the Consortium or an applicable individual Consortium Member. All Yard Waste Carts must be washed and reasonably clean of all debris and odor prior to delivery to a RDU and shall be in sound, working order.
- 2.9.7 City shall be responsible for supplying Trash Carts for initial distribution and inventory of replacement Carts, and spare parts for repairs. Consortium is responsible for repairing or delivering a replacement for any damaged or stolen Cart. The Consortium will report damage to a Cart that required replacement to the City on a form provided by the City (which will include photographs, description of damage, and date of replacement). If the City is not able to provide initial Carts prior to the Commencement Date, the Consortium may use their own Carts and the parties shall negotiate a rental price. If the City is not able to provide replacement Carts that are necessary for the Consortium to provide Services within ninety (90) days of notice from the Consortium that such replacement Carts are necessary, the Consortium may use their own Carts and the parties shall negotiate a rental price.
- 2.9.8 It shall be the responsibility of the RDU to properly use and safeguard the Carts. Each RDU has the care, custody and control of any Cart furnished by the City or the Consortium and the RDU shall be liable for any loss and damage, normal wear and tear excepted, to such Cart and for the cleanliness and safekeeping of such Carts.

2.9.9 In the event that a Cart is damaged and repair on-site is not practical, Consortium shall replace the damaged cart. This replacement shall be considered a Cart change.

2.9.10 The Consortium shall report the following to the City for the City's use to evaluate whether an RDU is responsible for damage to carts:

- abuse or misuse (e.g. fires, ashes) or neglect;
- Total destruction of cart (e.g. hit by car);
- Stolen or lost Cart.

RDU's shall not be responsible for damage caused by "normal wear and tear" such as:

- Cracks due to normal handling or weather conditions;
- Part malfunctions;
- Graffiti;
- Squirrel damage.

Prior to any Cart replacement, Consortium shall notify the RDU of need or recommendation for replacement and any applicable cost.

2.10 Spills

The Consortium shall immediately clean up any material scattered or spilled during Collection, unless such material was spilled or scattered as a result of the RDU's failure to properly prepare or set out such materials in accordance with this Contract, in which case the RDU shall be responsible for such cleanup. The Consortium shall also immediately notify the City of any such material spills caused by the Consortium Member. If the Consortium fails to clean up any material scattered or spilled by the Consortium during the pickup process by 12:00 p.m. one business day after its receipt of written or oral notification by the City (email is acceptable), the City may arrange such work to be done and deduct the costs from the responsible Consortium Member's Escrow Account. This deduction is instead of imposition of any liquidated damages that may be imposed. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the Consortium Member assigned to the area where the incident occurred and report that information to the City.

The Consortium shall immediately clean up any oil/fluid spills. The Consortium shall notify the City of any such material spills. The Consortium shall require that Consortium Member's comply with applicable local, state and federal laws and regulations regarding oil/fluid spills. Subject to such laws and regulations, if the Consortium vehicles leak any automotive or hydraulic oils or fluids, the Consortium must clean up the oil/fluid spill by 12:00 p.m. one business day after its receipt of written or oral notification by the City (email is acceptable), and if it fails to do so the City may arrange for such work to be done and deduct the costs from the responsible Consortium Member's Letter of Credit or Escrow Account in accordance with the terms of this Contract. This deduction is instead of imposition of any liquidated damages that may be imposed. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the Consortium

Member assigned to the area where the incident occurred and report that information to the City.

2.11 Trash Collection Services

2.11.1 Residential Trash shall be collected from all RDUs, except Vacant RDUs and suspended RDU accounts under Section 2.8, within the City during the term of the Contract. Consortium will notify the City of any RDUs that it suspects may be vacant. The Consortium shall discontinue Services to any Registered Vacant RDU if the Consortium is directed to do so in writing (email is acceptable) by the City. Upon such notification, Consortium shall remove the Trash Cart from the RDU within seven (7) days at no charge. Upon further written notification by the Owner to the Consortium the Consortium shall resume the Services contemplated by this Contract on the next regularly scheduled Collection day provided that at least five (5) business days' notice is given to the Consortium.

2.11.2 All RDUs receiving Services must be provided the Base Level Services. Additional Service Options may be ordered by the RDU and will be provided at an additional cost.

2.11.3 The Consortium shall offer four levels of Residential Trash Collection Services (see Exhibit 4a):

- (a) "Small" Trash Cart, every other week service (30-38 gallons);
- (b) "Small" Trash Cart, weekly service (30-38gallons);
- (c) "Medium" Trash Cart (60-68 gallons); or
- (d) "Large" Trash Cart (90-98 gallons).

Carts at RDUs electing every other week service shall be equipped with lids of a distinctive color to identify RDUs electing such service and to distinguish them from RDUs electing weekly service

2.11.4 The City will publish guidelines for RDUs with instructions on how to store and set out Trash. Residents will be advised that Trash Carts should have the lid fully closed. Any Trash bags that do not fit into the Trash Cart with the lid fully closed or open six (6) inches or less will be considered Overflow Trash for which the RDU will be billed for one or more Overflow Trash Bags, as applicable, on the next invoice. Consortium Member shall not bill for an Overflow Trash Bag based upon an open lid if the Trash Cart is open by six (6) inches or less. Items set outside the Trash Cart which are not placed in an Overflow Bag will be considered Bulky Waste for which the RDU shall be invoiced accordingly. Consortium Member may bill for an Overflow Trash Bag if the cart is open more than 6 inches or if items or Trash Bag(s) are adjacent to the Cart.

2.11.5 RDUs will be required to set out Trash at the Collection Location no later than 6:00 a.m. on the day of Collection to ensure collection on the proper day. RDUs that do not have Trash set out timely or properly and request a later pickup may be charged a return fee as outlined in Exhibit 4a, provided that the RDU has been notified of the fee and approves the return fee in advance.

2.11.6 Walk-up Collection of Trash Carts only without additional charge shall be allowed for RDUs eligible for such Service under this Section 2.11.6. An RDU must submit an application to the Consortium Member for Walk-up Collection for no additional charge. The application shall certify that all occupants residing at the RDU are physically unable to place Trash at the Collection Location as contemplated by this Contract. Consortium shall approve or deny the application and, if approved, shall notify the applicant and begin Walk-Up service within seven (7) days of the request. No request shall be denied due in whole or in part to the length of the driveway. If Consortium denies a request for Walk-up Collection without an additional charge, the Consortium shall cooperate with the City's investigation of any RDU's complaint regarding such denial.

The number of RDUs receiving Walk-up Collection service at no charge should not exceed two percent (2%) of the total RDUs serviced by Consortium. If the number of RDUs receiving Walk-up Collection service nears the 2% maximum then the City and the Consortium shall meet to discuss the criteria for eligibility to verify that all RDUs receiving this service are eligible.

- 2.11.7 Subject to this Section 2.11.7, Walk-up Collection of Trash Carts only can be purchased by RDUs who are not eligible for such Services under Section 2.11.6 as an Additional Service Option. The Consortium shall begin service within seven (7) days of the RDU request. RDUs shall be billed the additional fee for Walk-up Service on the next invoice, which fee shall be calculated using a pro-rata weekly cost based on the fee in Exhibit 4a. After initiation, the Consortium may charge for Walk-up Service collection together with Base Level Services.
- 2.11.8 Consortium shall not be required to provide Walk-up Service pursuant to Section 2.11.7 where the RDU is located more than 100 feet from the public roadway. RDU may choose to order such service for an additional fee reflected in Exhibit 4a. In the event Walk-up Service is provided, the RDU shall use the Trash Cart for storage of Trash but must place the Trash in bags designated to accommodate the storage of Trash, each bag not to exceed forty (40) pounds in weight. Walk-up Service, whether pursuant to Section 2.11.6 or 2.11.7 is not available for the collection of Yard Waste or Bulky Waste. RDU shall provide a clearly accessible walking path from the nearest Collection Point to the Trash Cart.
- 2.11.9 All RDUs in the City that set out Trash shall be required to use the City's Trash Carts, and, if needed, Overflow Trash Bags. Consortium shall have no liability and it shall not be a breach of this Contract if Consortium fails to provide any Services as a result of an RDU's failure to comply with this Section.
- 2.11.10 RDUs may set out additional Overflow Trash Bags for an extra fee if they do not fit into the RDU's Trash Cart with the lid open no more than six (6) inches.
- 2.11.11 Disposal of Trash shall take place at the Trash Disposal Facility. The Consortium shall ensure that the disposal costs are paid by the applicable Consortium Members and are included in the Base Level Price paid by the RDU to the applicable individual Consortium Member, as separately identified on Exhibit 4a, and are calculated based on Section 3.1.5 of this Contract.

- 2.11.12 All reasonable precautions shall be taken to prevent the spilling or scattering of Trash while loading or in transit.
- 2.11.13 RDU's shall be instructed by the City as to the types of materials that are eligible for Collection Services and that no Unacceptable Materials may be placed at the Collection Location on the day of Collection. The Consortium shall not knowingly collect any Hazardous Waste from RDUs, and shall refuse to pick up such Hazardous Waste if requested to do so. The Consortium shall notify the RDU via written or verbal notification of improper materials if through visual inspection the material is obviously Unacceptable Material. Notwithstanding anything in this Contract to the contrary, title to and liability for Unacceptable Material shall remain with the RDU at all times regardless of whether the Unacceptable Material is loaded in the Collection Vehicle. Nothing herein shall impose any obligation upon the Consortium to search the contents of any Cart, or other item(s) being collected, to determine if there is any Unacceptable Waste contained therein.
- 2.11.14 All Trash collected under this Contract shall be deposited at the defined Trash Disposal Facility. Trash collected under this Contract shall be weighed on certified truck scales at the Trash Disposal Facility, subject to notations for tonnages that are estimated due to combining as referenced in Section 4.1.1. The Consortium agrees to provide the City with a monthly total of Trash collected under this Contract as set forth in Article 4. The Consortium shall retain truck scale weight tickets for City inspection upon request for a period of at least three (3) years.

2.12 Organics.

The City and Consortium shall meet within 12 months (one year) of the Commencement Date to discuss an organics program. And, if operationally feasible at that time, specifications and a price will be negotiated in good faith between the City and the Consortium within 24 months (two years) of the Commencement Date. In the event Ramsey County requires the City to implement an organics program, nothing in this section shall prohibit the City from seeking proposals, entering into negotiations, or entering into a contract with entities other than the Consortium to provide Organics services.

2.13 Yard Waste Collection and Composting

- 2.13.1 The Consortium shall provide separate weekly Yard Waste Collection from April 15th through November 30th, weather permitting, for RDUs that subscribe. Yard Waste Collection is in addition to the Base Level Solid Waste Services and shall be provided for a fee as provided in Exhibit 4a. When first initiated, RDU shall be billed the additional fee for Yard Waste Collection on the next invoice, which fee shall be calculated using a pro-rata quarterly cost based on the fee in Exhibit 4a. After initiation, RDU shall pay for Yard Waste Collection together with Base Services.
- 2.13.2 RDUs that wish to subscribe to Yard Waste Collection shall contact the Consortium through the applicable Consortium Member. The Consortium shall

begin service within seven (7) days of its receipt of an order for Yard Waste Subscription by a RDU. The Consortium Member shall notify the RDU the collection day of the week for Yard Waste.

- 2.13.3 RDUs that subscribe to Yard Waste Collection must use Compostable Bags for Yard Waste, Carts, or both. The Consortium shall provide subscribing RDUs one (1) 60-68 gallon Yard Waste Cart. Subscribing RDU can fill the Yard Waste Cart and up to eight (8) Compostable Bags for Yard Waste each week.
- 2.13.4 The Consortium shall collect Compostable Bags for Yard Waste or Yard Waste Bundles from non-subscribing RDUs for a per-bag fee and/or per-bundle as provided in Exhibit 4a. Fees for Compostable Bags for Yard Waste or Yard Waste Bundles shall be included on the invoice following collection.
- 2.13.5 Any Yard Waste Bags or Bundles shall not exceed forty (40) pounds or two (2) feet in diameter and three (3) feet in length, and tree stumps, dirt or rocks will not be allowed. One Yard Waste Bundle will be equal to one (1) Compostable Yard Waste Bag.
- 2.13.6 Yard Waste collected from the City shall be disposed of at a yard waste transfer or composting facility(s) that, to the Consortium's knowledge, is in conformance with all local and state regulations. The Consortium shall notify the City of the disposal location(s).
- 2.13.7 Yard Waste Carts shall be owned by the individual applicable Consortium Member.
- 2.13.8 RDU's will be required to set out Yard Waste Carts, Compostable Bags and Yard Waste Bundles at the Collection Location no later than 6:00 a.m. on the day of Yard Waste Collection to ensure Collection on the proper day. RDUs that do not have Yard Waste set out and request a later pick-up may be charged an additional trip service charge as outlined in Exhibit 4a, provided that the RDU has been notified of the fee and approves the return fee in advance.

2.14 Bulky Waste Collections

- 2.14.1 Bulky Base Services shall be included as part of the Base Level Services as limited by the service level selected by the RDU. Bulky Waste Collection services in addition to Bulky Base Services shall be provided to RDUs as an Additional Service Option. The Consortium shall provide all collection and disposal services related to these Bulky Waste items. RDUs must order such service a minimum of forty-eight (48) hours prior to Collection Day.
- 2.14.2 Consortium shall collect Bulky Waste no later than seven (7) days after receiving notice for pickup of Bulky Waste from an RDU. If the RDU has already received its annual Bulky Base Services, then the Consortium shall impose a fee as provided in Exhibit 4a for the Bulky Waste. Such charge shall be placed on the next invoice.
- 2.14.3 The City will publicize and/or distribute the Bulky Waste collection price schedules to RDUs.

- 2.14.4 In 2018, Bulky Base Services shall include one (1) Bulky Waste item and one (1) holiday tree. Thereafter, RDUs shall be entitled to two (2) or three (3) Bulky Waste items per calendar year, depending on the selected service level. If an RDU changes service levels during a calendar year, the number of bulky items included shall also adjust accordingly.
- 2.14.5 Bulky Waste collection service from eligible RDUs shall not be exclusive to the Consortium. The City retains the right to license and contract with additional contractors to provide Bulky Waste collection services.
- 2.14.6 It is the responsibility of the RDU to ensure that, prior to Collection, all Bulky Waste is empty of all foods and liquids. Consortium shall not be required to collect Bulky Waste that does not meet these standards, but is required to leave an Education Tag or otherwise communicate to explain the reason why the item wasn't collected.
- 2.14.7 RDU's shall be required to set out Bulky Waste at the Collection Location no later than 6:00 a.m. on the day of scheduled Collection to ensure Collection on the proper day. RDUs that do not have Bulky Waste properly set out at the time of Collection may be charged an additional trip service charge as outlined in Exhibit 4a, provided that the RDU had been notified of the fee and approves the cart change in advance.
- 2.14.8 Bulky Waste collection may be, but is not required to, take place on the same day as Trash Collection.

2.15 Billing, Collection, Fees, and Method of Payment. Consortium shall ensure that Consortium Members abide by the following procedure:

- 2.15.1 Consortium Members are responsible for invoicing, collecting payments, and performing administrative functions related to billing each RDU for Services. Consortium Members shall bill each RDU on a quarterly basis for all services including Base Level Services and any requested Additional Service Options. At a minimum, Consortium Members shall accept payments by check, money order, automatic payments, online website payment and or debit/credit over the phone. Consortium Members may charge RDUs a \$30.00 fee for payments rejected due to non-sufficient funds.
- 2.15.2 From the Commencement Date until January 1, 2020, the cost to each RDU shall be the prices listed in Exhibit 4a - Price Worksheet for Services rendered to the RDUs, except as adjusted prior thereto pursuant to Section 3.1.4.1 of this Contract. Each year, no later than August 1, beginning in 2019, the parties shall meet to discuss adjustment of rates to RDUs for the following year as provided in Section 3.1. Such prices must be set no later than September 1 or when the Trash Disposal Facility releases its tipping fee, whichever is later. If the parties cannot agree on how to apply disposal costs for each service level, the costs shall be distributed between service levels consistently with the prior year's disposal costs. Such price changes, if any, shall take effect and apply to services rendered after January 1 of the following year.

- 2.15.3 Other than what is expressly stated in Exhibit 4a, 4b or in this Contract, Consortium shall not impose any additional fees, taxes or surcharges of any kind or impose any other increase in the prices and rates for Services within the explicit scope of this Contract. Provided, however, that nothing contained herein shall prevent any Consortium Member from providing other waste services to RDUs which are not otherwise explicitly provided for under this Contract and may do so at a rate to be individually negotiated between the RDU and the Consortium Member, and for which services the Consortium Member shall separately invoice the RDU.
- 2.15.4 Consortium Members shall use billing invoices that are itemized and include the following but not limited to: cart size, service level, Additional Service Options Costs, Fuel Surcharge, dates of service, service address, billing address, credits, taxes and payments received.
- 2.15.5 The Consortium Members shall invoice RDUs by mail or email based on the preference of the RDU on the 20th day of the month prior to the first day of Services for such quarterly period (quarterly periods to start on the first of January, April, July and October). RDUs shall remit payment in full within ten (10) business days of the date of the invoice. Such invoice shall include any unpaid charges for Additional Service Options provided during the preceding quarter. Consortium Members shall inform RDU's who shall dispute any charges within thirty (30) days of the due date of the invoice. Consortium Members are not required to refund any charges for an RDU who failed to dispute a charge within thirty (30) days. An RDU shall have conclusively agreed to any invoiced amounts upon failure to deliver a written objection within thirty (30) days after the due date of the invoice.
- 2.15.6 Invoices not paid by the due date are subject to a 5% monthly late fee which shall be imposed on the Original Notice of Non-Payment, which shall be sent when payment has not been received by the end of the first month of service for the period being billed (for example, an invoice dated September 20 not paid by October 4 would incur its first late fee on October 31). The Consortium Member shall send Periodic Notice of Non-Payment to the RDU every 30 days for the remainder of the first quarter of nonpayment. The 5% monthly late fees are limited to the first three months of nonpayment.
- 2.15.7 After ninety (90) days of non-payment, each Consortium Member shall cease collection efforts, notify the City of nonpayment and bill the City for non-paid services. The Hauler Notice of Non-Payment to the City shall include the Original Notice of Non-Payment, the Period Notices of Non-Payment, the Documentation of Collection Attempts and the Delinquent List as noted in section 2.15.10. The Consortium Member shall immediately notify the City of any payments received after the Hauler Notice of Non-Payment to the City. At such time the City sends a City Notice of Non-Payment to the RDU, it will send a copy to the applicable Consortium Member.
- 2.15.8 If the Consortium Member follows the billing and collection process described in this section 2.15 and the City has verified that the Consortium Member has

satisfied the collection attempt requirements, the City shall pay the Consortium Member amounts due, semiannually, on March 1 or September 1, as displayed in the Exhibit 9, the **Billing Timeline Exhibit**.

2.15.9 The City shall not withhold or delay payment to any Consortium Member due to another Consortium Member's failure to perform its obligations under this section or any other section of this Agreement.

2.15.10 The City and Consortium will work to develop the following standardized communication tools as described in this Section 2.15:

- Original Notice of Non-Payment
- Periodic Notice of Non-Payment
- Documentation of Collection Attempts
- City Notice of Non-Payment to RDU
- Hauler Notice of Non-Payment to the City
- Delinquent List

2.15.11 The obligations of this section shall survive termination of this Contract.

2.15.12 Notwithstanding any provisions of Section 2.15, the Consortium may discontinue all attempts to collect outstanding balances from RDUs if continuing collections would be contrary to law, including but not limited to 11 U.S.C. § 362. In such event, the City shall pay outstanding balances regarding such RDUs in accordance with Section 2.15 regardless of whether the collection attempt requirements have been met.

2.16 RESERVED

2.17 Other Special Event Collections

Collection of Trash, Yard Waste and Bulky Waste for other special events held on City property or sponsored in whole or in part by the City shall not be a part of this Contract and the City shall procure such services by separate contract.

2.18 Collections from City Buildings and Parks

Collection of Trash, Yard Waste, and Bulky Waste at the City owned and operated buildings and parks shall not be part of this Contract and the City shall procure or provide such services internally or by separate contract.

2.19 Public Education. The Consortium will participate and collaborate with the City on communication, education, and outreach to RDUs to facilitate a smooth transition to coordinated collection but the City shall be solely responsible for all materials and costs associated with the communication, education, and outreach. Unless otherwise noted in this Contract, the City will be responsible for all formal public education programs and outreach related to the Services. The City will provide all public and information materials to the Consortium as camera-ready copy, including information to be included

in packages to be distributed by the City with the Trash Carts. Public education responsibilities will be shared between the City and the Consortium as specified below.

2.19.1 The City will provide the following public education services:

- Notify RDUs annually of rates, regulations and complaint procedures.
- Educate RDUs on the general rules and requirements for Trash, Yard Waste, and Bulky Waste disposal, winter shoveling protocol and set out times and locations.
- Use of all available social media tools to communicate information on the Services provided pursuant to this Contract and on an RDU's obligations with respect to Trash, Yard Waste, and Bulky Waste collection.
- The City shall create and maintain on its website a page dedicated to Trash, Yard Waste, and Bulky Waste Collection Services with a link to each Consortium Members' websites.
- The City shall be responsible for printing all education pieces with the exceptions of the items specifically produced by the Consortium pursuant to Section 2.19.2 of this Contract.
- The City shall develop (with the consultation of the Consortium) and the City shall print educational tags used by the Consortium to notify the RDU of items incorrectly prepared or placed for collection, inclusion of household hazardous waste or other Unacceptable Materials, continued overflow or excess materials for current service level, or other issues as they arise.
- The City may develop informational or educational messages which Consortium Members shall include on invoices to the extent it is technically feasible to do so. Haulers may limit the number of characters in messages to meet technical requirements.
- The City shall develop and print initial materials used at the time of the new program implementation.
- The City shall provide translation assistance via phone and for City-produced printed materials, provided that Consortium refers all individuals with limited English proficiency to the City or provides the City with contact information for such individuals.
- The City and Consortium shall jointly approve education materials or content prior to sending or posting by the City, Consortium or Consortium Members.

2.19.2 The Consortium will provide the following public education services:

- Distribute (attach to Cart) Educational Tags that include information related to trash collection rules, including but not limited to: improper Cart placement or improper disposal of materials as necessary.
- Deliver informational materials with the delivery of Trash Carts to all new owners of RDUs.

- Ensure that each Consortium Member has a website and maintains a link to the City of Saint Paul Solid Waste Collection Services Website on their Saint Paul specific webpage.
- The Consortium shall provide selected public education services as agreed upon by both parties.

2.20 Customer Service and Communication

- 2.20.1 The Consortium will accept and respond to all service related complaints submitted by RDU.
- 2.20.2 The Consortium will respond courteously to all RDU, resident, and City Staff inquiries. The City shall educate RDU's that the first point of contact with respect to any Service inquiry by an RDU shall be the responsible Consortium Member.
- 2.20.3 The Consortium shall maintain throughout the duration of this Contract a Consortium Customer Service Point of Contact who will ensure that service issues are resolved within a reasonable time period after being officially notified by City staff. A backup Consortium Customer Service Point of Contact shall also be designated by the Consortium for times when the primary Consortium Customer Service Point of Contact is not available.
- 2.20.4 The City requires reasonably responsive, friendly customer service at all times, including interactions with RDUs and residents by drivers / crews on the collection route, interactions on the phone, emails, web sites, and in all other forms of communication. Consortium and Consortium Members shall refer individuals with limited English Proficiency to the City or provide contact information to the City for individuals with limited English Proficiency in order for the City to provide translation services.
- 2.20.5 Consortium shall ensure that each Consortium Member establishes and maintains a customer service office for accepting or responding to complaints and customer telephone calls. The office shall be in service during the hours of 8:00 a.m. until 4:30 p.m. Central Time on all days except Saturday, Sunday, and Holidays. The Consortium shall ensure that each Consortium Member's Customer Service Office has adequate staffing capacity during normal business hours so callers do not experience extensive hold times (defined as five (5) minutes or more) or "menus" and all voice mail messages left by RDUs are returned within one business day. Notice of service requests shall be deemed received by the Consortium at the time a voice mail is left by the requesting RDU.
- 2.20.6 In the case of alleged Missed Collections, the Consortium shall investigate, and, if such allegations are verified, the Consortium shall then arrange for the collection of the subject materials no later than 4 p.m. the next business day after being notified of the missed collection. The Consortium shall, or shall require each Consortium Member to, keep a log of all missed collections, with details of its resolution and provide it to the City on a monthly basis, listed by the responsible Consortium Member.

- 2.20.7 Consortium shall identify a Consortium Contract Officer and a Consortium Customer Service Point of Contact who will be regularly available to the City during all Customer Service Hours.
- 2.20.8 To the extent possible, the Consortium and Consortium Members shall attempt to resolve customer service issues directly between the Consortium Member servicing them and the RDU. If an RDU makes an application under Sections 2.8 or 2.11.6, and that request is denied, the Consortium shall ensure that Consortium Members cooperate with the City's investigation of the denial.

2.21 Escrow Accounts and Letters of Credit.

- 2.21.1 Prior to the Commencement Date, Consortium shall ensure that individual Consortium Members fund an Escrow Account or provide a Letter of Credit (at each Consortium Member's discretion) for the benefit of the City in the aggregate amount of \$250,000.00, to be divided into shares for each Consortium Member that reflect that Consortium Member's market share. However, an individual Consortium Member's amount may not be less than five-thousand dollars (\$5,000.00) with the remaining requirement divided pro-rata based on the individual Consortium Member's market share. To satisfy this obligation, the Consortium shall require that each Consortium Member deposit with the City a Letter of Credit or fund an Escrow Account with a single reputable financial institution that meets the share requirement.
- 2.21.2 Except as provided herein, the City must be able to draw upon the Letter of Credit or Escrow Account if it has followed the procedures described below, even if there is a dispute as to whether there has been an act or omission that would entitle the City to call upon the Letter of Credit or Escrow Account. The form and content of such Letter of Credit or Escrow Agreement shall be in a form approved by the parties. The Letter of Credit and Escrow Account shall be used only to enforce the provisions of Sections 2.1.6, 4.3, or 12.1.
- 2.21.3 Whenever the City shall receive payment of any amount drawn against a Letter of Credit or Escrow Account pursuant to Section 2.21, and the payment is not disputed, the Consortium shall ensure that the Consortium Member shall pay to or deposit with the financial institution with whom it maintains said Letter of Credit or Escrow Account an amount sufficient to replenish the Letter of Credit or Escrow Account to its full original value within ten (10) business days after the Consortium has been tendered delivery by certified mail, return receipt requested, of the request for payment. The Director of the Office of Financial Services shall be furnished with written proof of replenishment not later than forty-eight (48) hours after it is accomplished. If the payment against the Letter of Credit or Escrow Account is disputed, there shall be no requirement to replenish the Letter of Credit or Escrow Account until the dispute is resolved.
- 2.21.4 If the Consortium or Consortium Member fails to pay to the City after ten (10) business days' notice of imposition of liquidated damages, or fails to repay the City within ten (10) business days any damages, costs or expenses which the City incurs under Sections 2.1.6 or 4.3, the City may, subject to Section 2.21.7, immediately request and receive payment of the amount thereof from the financial

institution holding the Letter of Credit or Escrow Account. Upon such request for payment, the City shall notify the Consortium of the amount and date thereof.

2.21.5 The rights reserved to the City with respect to the Letter of Credit and Escrow Account are in addition to all other rights of the City, and no action, proceeding or exercise of a right with respect to such Letter of Credit or Escrow Account shall affect any other right the City may have. Draws from a Letter of Credit or an Escrow Account shall not alter the City's burden of proof to establish a breach of the Contract in a civil action regarding a dispute regardless of which party initiates the action.

2.21.6 The Letter of Credit shall contain an endorsement substantially similar to the following endorsement:

"It is a condition of this letter of credit that it is deemed to be automatically extended without amendment for a one-year period from the current expiry date hereof unless at least thirty (30) days prior to any expiration date, we notify you by certified mail or overnight courier that we elect not to consider this letter of credit extended for any such additional period."

2.21.7 The City shall not draw on the Letter of Credit or Escrow Account until the following procedures have been completed:

2.21.7.1 For damages caused by a Consortium Member that are repaired by the City under Section 2.1.6 (utilities), 2.10 (spills), and 4.3.2 (private property), the City shall not draw on any Letter of Credit or Escrow Account until the Consortium Member has failed to reimburse the City for cost incurred within ten (10) business days receipt by the Consortium and the affected Consortium Member of written notice from the City of the City's costs.

2.21.7.2 For liquidated damages under Section 12.1, the City shall not draw on any Letter of Credit or Escrow Account until the completion of the procedures provided for in Section 12.

2.21.8 If the City draws on a Letter of Credit or Escrow Account in error, such as the City failing to meet its burden of proof regarding an alleged breach of Contract, the City shall reimburse the amount of the draw to the Letter of Credit, Escrow Account, or directly to the Consortium Member, as directed by the Consortium Member. If, through negotiation, mediation, court action or other resolution of the dispute, it is determined that all or a portion of the draw should be refunded, the City shall refund such amount within ten (10) business days.

3 Annual Price Adjustments

3.1 Beginning on January 1, 2020, the Trash Collection Costs and Disposal Costs charged each RDU as reflected on Exhibit 4a shall be approved by the Council and adjusted annually. Failure by the Council to approve any required price adjustment shall be a breach.

- 3.1.1 Trash Collection Costs: The initial Fuel Portion of the Trash Collection Costs shall make up 10% of the total Collection Costs. The initial Non-Fuel Portion of the Trash Collection Costs shall make up 90% of the Trash Collection Costs. This allocation shall be adjusted on an annual basis to reflect any changes in the ratio of fuel costs to non-fuel costs as the Base Level Prices are adjusted.
- 3.1.2 Fuel Surcharge: The Fuel Portion of the Trash Collection Costs shall be adjusted on an annual basis based on increases in the price of fuel above the Base Fuel Price of \$3.50. The Fuel Surcharge shall be 0% if the average fuel price for the previous 12 months is at or below the Base Fuel Price. If the average price for fuel for the year prior is above the Base Fuel Price, a fuel surcharge shall be assessed which shall be equal to the percentage change from the Base Fuel Price compared to the average fuel price over the prior 12 months. The fuel surcharge shall be added to the Fuel Portion of the Trash Collection Costs. If the price per gallon of fuel exceeds \$5.00 per gallon or goes below \$1.00 per gallon, the City and Consortium agree to negotiate in good faith to reassess the Fuel surcharge for Trash Collection Costs. In the circumstance where the average price per gallon exceeds \$5.00 per gallon or goes below \$1.00 per gallon, and the fuel adjustment is delayed because the parties cannot agree to a fuel adjustment, then the fuel adjustment formula shall be adjusted to account for any delay in implementation of the fuel adjustment.
- 3.1.3 Consumer Price Index Adjustment: The Non-Fuel Portion of the Trash Collection Costs shall be subject to an increase (but not a decrease) equal to the increase, if any, during the prior twelve month period in the Consumer Price Index. The annual increase, if any, shall be an amount equal to the percentage increase for the previous twelve-month period in the referenced CPI-U index with the amount of the increase based on the most current information available from the U.S. Department of Labor. The increase, if any, shall be calculated by multiplying the current Non-Fuel Portion of the Trash Collection Costs by the percentage change in the CPI-U. The maximum annual increase in the Non-Fuel Portion of the Trash Collection Costs shall be 3%.
- 3.1.4 Adjustment due to Change in Law:
- 3.1.4.1 If there is any new or additional governmental fee or tax imposed after the Effective Date that is based on the costs of Residential Collection Services or is expressly intended to be passed through to RDU's, the fee or tax shall not be part of the Base Level Price, but the actual cost of such fee or tax shall be passed through to the RDU's and included as "taxes" on the invoice at the time the fee or tax is imposed. The Consortium shall provide to the City documentation demonstrating such increased fees and taxes and the City will evaluate the Consortium's calculation to verify that such fees and taxes have been properly calculated. The Consortium shall not impose such additional fee or tax without City approval of such calculation, which approval shall not be unreasonably withheld or delayed. Any governmental fee or tax that is reduced or repealed shall not continue be included on any invoice.

3.1.4.2 Trash Collection Costs reflected in the rates charged under this Contract may otherwise be adjusted based on permanent increases in operational costs or expenses incurred by Consortium and/or all Consortium Members in performing the Services that are not adequately reflected in the CPI-U, fuel surcharge, disposal costs, taxes or other charges already passed through to RDUs. It is the City's intent that costs for Consortium and Consortium Members to provide Services are not directly impacted due to a Change in Law. The City will evaluate the Consortium's calculation to verify that increased costs as described above are passed on to RDUs. The City shall allow Consortium to present arguments in favor of the request for a price adjustment directly to the City Council for final determination.

(a) Change in Law is defined as any amendment to, or promulgation of any federal, state, city or local statute, regulation, or ordinance after the Effective Date that imposes, changes, modifies and/or alters requirements upon:

1. Performing the Services;
2. Disposal of Trash, Yard Waste, or Bulky Waste, or which statute regulation or ordinance requires Consortium to seek either an amendment or modification to or reissuance of any required permits, licenses, approval or authorization issued by any governmental body entitling the Consortium or any Consortium Member to perform the Services; or

(b) Fees and taxes means any federal, state, local, or other taxes assessments, fees, hosts charges, surcharges, or similar charges directly related to the Services which are imposed on the Consortium or a Consortium Member by law, ordinance or regulation and/or agreement with a governmental body.

3.1.5 Disposal Costs: The disposal portion of the Trash Collection Costs for all service levels shall be negotiated by the parties and adjusted annually based on: 1) changes to the hauler "Net Contracted Rate" (rate minus any discount or rebate) for disposal costs at the Trash Disposal Facility; and 2) the actual average tonnages collected per gallon per household in the prior 12 months. Consortium Members shall complete standard forms and provide those forms to the City. The Consortium shall forward reports it has timely received from Consortium Members at one time. Consortium shall provide to the City a quarterly report in Excel format or other suitable electronic format agreeable by both parties. The quarterly report shall include all tonnages and flag any ticket that includes an estimate due to combining trash in one load from another community or non-eligible (e.g. commercial accounts, 5 units and above) Saint Paul accounts with trash collected under the Contract. Actual weight tickets will be retained for a period of three (3) years and provided electronically to the City upon request.

4 Consortium's Reporting Requirements

4.1 Reporting Requirements.

The Consortium shall obtain the following reports from each Consortium Member and shall submit the following reports to the City. All information shall be provided within thirty (30) days of the end of the reporting period. Any and all reporting requirements including frequency may be adjusted upon mutual agreement of both parties.

4.1.1 Monthly Reporting. These items shall be reported monthly from the Commencement Date until December 2019 and thereafter shall be reported on a quarterly basis.

The monthly report shall contain total tonnages collected by Collection Day and Collection Zone under this Contract for the following:

- Trash, including notation for tonnages that are an estimate due to combining trash in one load with trash from another community or non-eligible units from Saint Paul; the notation shall include estimates of tonnages for both Contract trash and non-Contract trash.
- Bulky Waste unit counts and whether RDU paid an additional charge.
- Electronic Waste unit counts.

The monthly report shall also contain the following information:

- Number of RDUs that received a Cart change.
- Number of RDUs with Additional Service Options with counts by specific Additional Service Option.

4.1.2 Quarterly Reporting. These items shall be calculated and documented monthly by Collection Day and Collection Zone reported on a quarterly basis. Consortium Member's shall complete standard forms and provide those forms to the Consortium. The Consortium shall forward reports it has timely received from Consortium Members at one time to the City.

4.1.2.1 The Consortium shall ensure that the Consortium Members track the following information monthly for reporting on a quarterly basis, in a format that is agreed upon by the parties, the following information and any other information as agreed to by the parties.

- Upon request, Consortium shall provide service level, Additional Service Options, and other customer service notation information for any RDU.
- Additional Service Options provided (including number of "Walk-Up" accounts).
- Trash Cart management update to include the number of carts in supply by size, number of switch-outs, repairs done and total handled through the warranty process.
- Number of RDUs that applied for Walk-up Service and Suspended Service, including a count of all such applications that were denied.
- Yard Waste may be reported by tons or volume in terms of cubic yards. Consortium shall ensure that Consortium Members retain weight tickets (or volume-based dump receipts if no scale) for City inspection upon request, made

not more frequently than once in any six (6) month period, for a period of three (3) years.

4.1.3 Annual Meeting: The Consortium and City shall meet in person in February of each year. Topics shall include, but not be limited to:

- Annual progress discussion with plans for the next year.
- Certification that the route maps as specified in this Contract are up to date.
- Any other industry relevant information or updates.
- Recommendations to improve Coordinated Collection operations, education and other service issues.
- Summary of tons collected by Consortium Members by route/collection zone.
- Summary of Bulky Waste collected by Consortium Members by route/collection zone.
- Summary of Cart inventory including switches, repairs, and warranty claims.

4.1.4 Collection Zones and Route Maps.

Within 90 days of the Effective Date, the Consortium will propose a draft Collection Day map for review and comment by the City. The City shall review the Consortium's proposed Collection Zone map and provide comments to the Consortium within 30 days after its receipt. The Collection Zone map shall be finalized and approved no less than ninety (90) days prior to the Commencement Date. Final Collection Zone route maps must show the proposed details for each truck route including: start point (i.e., first collection for the day), and stop point. Once reviewed by the City, the Consortium shall make reasonable efforts to minimize changes in routing patterns. The Consortium is responsible for incorporating standard industry safety practices such as optimizing right hand turns, limiting truck traffic on residential streets and alleys, and reducing backing of the Collection Vehicle.

These routes, once reviewed by the City, shall be followed by the Consortium. Once the initial route maps have been reviewed by the City, the Consortium shall submit any permanent changes in Collection Day for City approval at least ninety (90) days prior to implementing any change(s) except in the case of an emergency or a Force Majeure Event.

4.2 Consortium's Safety Plans Including Accident Reporting

4.2.1 The Consortium shall comply with the safety provisions of all applicable laws and regulations, including, without limitation, the installation and maintenance of safeguards on machinery and equipment, the minimization of hazards, and worker safety training.

4.2.2 The City reserves the right to request reasonable additional documentation of the Consortium Members regarding its safety plans, accident reports and compliance

records solely with respect to the Consortium or Consortium Member's performance of its obligations under this Contract.

- 4.2.3 The Consortium shall require all Consortium Members to exercise precautions at all times to protect the safety of such Consortium Member's employees as well as RDUs and their property.
- 4.2.4 The Consortium shall immediately notify the City of any accident, of any kind, involving a Consortium Member and the general public, as well as any property damage accident involving private, public, or individual Consortium Member's property.
- 4.2.5 The Consortium shall immediately notify the City of any release of vehicle fluids (e.g., fuel, coolant, hydraulic fluid, brake fluid, etc.) or load contents onto City streets or otherwise into the environment.
- 4.2.6 The Consortium shall provide the City with a written report the next business day including the details of any such release of vehicle fluids and identify the measures used to remedy the accident or clean up any spill.
- 4.2.7 The Consortium shall follow all of the safety requirements outlined in Exhibit 5.

4.3 Damage to Property

- 4.3.1 The Consortium shall take all reasonably necessary precautions to protect public and private property during the performance of this Contract.
- 4.3.2 The Consortium shall repair or replace any private or public property, including, but not limited to sod, mailboxes, or Carts, which are damaged by the Consortium. The repair or replacement must be of the same or equivalent value at the time of the damage. The Consortium shall communicate with the RDU within two (2) business days and arrange for the performance of such repairs or replacements within seven (7) business days of its receipt of written or oral notification by the City (email is acceptable) of such damage. If damage occurs during months when repairs cannot be made (e.g., winter for landscape repairs), the Consortium shall communicate with the RDU within two (2) business days and shall make arrangements with the property owner within seven (7) business days as to when such repair will be made. If the Consortium fails to arrange repair in this time or fails to complete repairs in this time, the City may arrange such work to be done and deduct the costs from the responsible Consortium Member's Letter of Credit or Escrow Account in accordance with the terms of this Contract. This deduction is instead of imposition of any liquidated damages that may be imposed. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the Consortium Member assigned to the area where the incident occurred and report that information to the City.

5 Taxes, Licenses and Permits

- 5.1 The Consortium shall ensure that the Consortium and all Consortium Members shall pay all sales, use, property, income, and other taxes and service charges that are lawfully assessed against the City or Consortium or Consortium Members in connection with the Consortium's facilities and the work included in a Contract and shall obtain, maintain and pay for all licenses, permits, certificates of authority, and inspections required for the work during the term of the Contract.
- 5.2 During the Term of this Contract, the Consortium shall have the sole and exclusive right to provide Services. All such rights shall be exclusive to the Consortium and no other person or entity except the Consortium and its Consortium Members may offer or provide the Services as contemplated hereby. The City further agrees that it will not enter into any agreement or understanding with any other person or entity for the performance of the Services contemplated hereby during the term of this Contract including any renewals hereof. Notwithstanding the foregoing, the City shall not be restricted in any way from seeking proposals, entering into negotiations, or entering into a contract, agreement or understanding during the term of this Contract regarding Services to be provided after the expiration of this Contract. The City shall not arbitrarily revoke or decline to renew any Consortium Member's license to operate in the City during the term of this Contract; nor shall the City levy any new taxes or assess any fees on waste collection licensees without allowing such costs to be passed on to RDU's in the form of rate increases. During the term of this Contract the City shall not, through ordinance changes related to licenses or trash collection, impose any undue obligations or restrictions on waste collection licenses which would effectively increase the burden on the Consortium and the Consortium's Members performance under this Contract.
- 5.3 In the event of any termination or non-renewal by the City of an individual Consortium Member's license, the Consortium's Collection Zones previously serviced by that Consortium Member, as depicted in Exhibit 2, shall be re-allocated among the remaining Consortium Members as determined by the Consortium.

6 Independent Contractors

- 6.1 It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the City and the Consortium or its Members or as constituting the Consortium or any Consortium Member, as agents, representatives or employees of the City for any purpose or in any manner whatsoever. The Consortium and the Consortium Members are to be and shall remain independent contractors with respect to all Services performed under this Contract. The Consortium shall ensure that any and all personnel of the Consortium Members, or other persons while so engaged, and any and all claims whatsoever on behalf of any such person(s) or personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Consortium or Consortium Members, officers, agents, contractors or employees shall in no way be the responsibility of the City.

The Consortium shall require that each Consortium Member has or will secure at their own expense, all personnel required to perform the Services identified in this Contract.

Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the City, including, without limitation, tenure rights, medical and hospital care, sick and safe and vacation leave, workers' compensation, unemployment compensation, disability, severance pay and Public Employees Retirement Association.

The City acknowledges and agrees that the Consortium shall in no way be responsible for or liable for the acts or omissions of the Consortium Members in connection with this Contract. The City shall look solely to the individual Consortium Members for any liability associated with this Contract (other than performance of the Services), nor shall there be any joint and several liability amongst the Consortium Members.

7 Title to Solid Waste

Title to all Trash, Yard Waste, and Bulky Waste and all incidents of ownership thereto shall pass to the applicable individual Consortium Member when such materials are placed into the Collection Vehicle with the exception of Unacceptable Materials. Ownership and liability of Unacceptable Materials shall remain with the individual RDU.

8 Subcontracting and Assignment

- 8.1 The Consortium agrees that Consortium Members shall not to enter into any agreements with entities that are not Consortium Members for the provision of Services without obtaining prior written approval of subcontract from the City. The Consortium must submit a proposed contract with a non-Consortium Member to the City and the City shall have fourteen days to approve or deny such contract, such approval shall not be unreasonably withheld or delayed. If the City fails to respond by the close of the fourteenth day the contract shall be deemed approved.
- 8.2 If such approval is granted, Consortium agrees to ensure that Consortium Members promptly pay any entity doing work or furnishing skills, tools, machinery, materials, equipment or supplies to or on behalf of any Consortium Member and all just claims for such work, material, equipment, insurance and supplies in the performance of this Contract.
- 8.3 Notwithstanding section 8.1, Consortium shall ensure that the contract with a non-Consortium Member must provide the insurance requirements set forth in Section 11 of this Contract, and the requirements in Section 13.
- 8.4 Neither the City nor the Consortium may assign this Contract or any of its interest arising therein, without the written consent of the other party which consent shall not be unreasonably withheld or delayed. Any permitted successors or assigns of the City and the Consortium shall be bound, with respect to all covenants of this Contract.

- 8.5 Subject to the limitations contained in Section 12.2.3, the Consortium shall be as fully responsible and accountable to the City for the acts and omissions of all subcontractors, and of persons either directly or indirectly employed by the Consortium or Consortium Members, as they are for the acts and omissions of persons directly employed by them. Upon written notice from the City that subcontractor of the Consortium, or Consortium Member, fails to perform its duties in a satisfactory manner, the Consortium will investigate any and all such claims and report back to the City.
- 8.6 Nothing contained in a subcontract with an entity outside the Consortium shall create any contractual relationship between any non-Consortium subcontractor and the City. The Consortium alone shall be held responsible for the full and faithful performance of Services in accordance with this Contract.
- 8.7 Notwithstanding the forgoing, the City understands that the Consortium Members will be undertaking various actions in order for the Consortium to fulfill its obligations to provide the Services and any related obligations and agrees that the Consortium does not need the City's approval for such allocation of responsibility to Consortium Members. Consortium agrees to inform the City of any transfer of accounts among Consortium Members thirty (30) days prior to the first collections made by the newly assigned Consortium Member, with limited exceptions for insider trading concerns or when providing such advance notice is prohibited by law or the parties are subject to a confidentiality agreement. Consortium agrees to continue all telephone numbers, email addresses, and other points of contact associated with the transferred account for a minimum of six months following the transfer. Further, the acquiring Consortium Member shall communicate directly with all impacted RDUs about the transfer notifying impacted RDUs of the transfer and how to contact the acquiring Consortium Member. City shall approve such communications. The acquiring Consortium Member shall bear all costs associated with these communications.
- 8.8 Any Consortium Member seeking to assign their accounts to another party who is not a Consortium Member (the "Proposed Consortium Member") must first obtain the City's prior written consent and such party must obtain a City license, provided, however, that such prior written consent shall not be required if notice and consent is precluded for reasons such as limitations imposed on publicly traded companies, limitations contained in a confidentiality agreement, or similar nature. The City shall grant such consent if the Proposed Consortium Member is of equal or greater financial stability as the Consortium Member assigning such accounts and has at least 10 years of experience providing similar services in a municipality with at least 5,000 customers. In all other cases, the City will not unreasonably withhold, delay or qualify its consent to any requested assignment. Prior to beginning any work, the Consortium shall confirm that the Proposed Consortium Member has obtained all necessary state, county and city licenses. The Proposed Consortium Member must be a member of the Consortium for all legal purposes and shall be responsible as such for the provision of its Services within the area designated in the Collection Zone. Proposed Consortium Member shall become a Consortium Member. Consortium agrees to continue all telephone numbers and email addresses, and other business points of contact associated with the transferred account for a minimum of six months following the transfer. Further the Proposed Consortium Member shall communicate directly with all impacted RDUs about the transfer notifying

impacted RDUs of the transfer and how to contact the Proposed Consortium Member. The Proposed Consortium Member shall bear all costs associated with these communication. The city shall approval all communications.

9 Rights of Use

The Consortium agrees that the City will own and have the right to use, reproduce and apply as it desires, any data, RDU addresses, service account information, customer lists, routes, reports, analyses and materials which are collected or developed for the first time solely and exclusively by the Consortium or anyone acting on behalf of the Consortium for the City and as a result of this Contract. Notwithstanding the foregoing, the City agrees that it shall not own or have any right to use, reproduce, or otherwise possess software or other similar intellectual property, whether pre-existing or not, of the Consortium or of any Consortium Member that is used or related to performance of Services under this Agreement, even if the intellectual property stored, used or relied on data ultimately owned by the City.

10 Indemnification

- 10.1 The Consortium will defend and indemnify the City, its officials, agents, and employees from and against any and all claims, actions, or suits of any character brought for or on account of any claimed or alleged injuries or damages received by any person or property resulting from any negligent act or omission by Consortium or any person employed by Consortium in carrying out the terms of this Contract.
- 10.2 Consortium shall ensure that each Consortium Member shall defend and indemnify the City, its officials, agents, and employees from and against all claims, actions, or suits of any character brought for or on account of any claimed or alleged injuries or damages received by any person or property resulting from any negligent act or omission by Consortium Member, its officials, agents, employees or subcontractors in carrying out the terms of this Contract. Consortium Members shall not be required to defend and indemnify any person, including the Consortium or the City, against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from the acts or omissions of any other Consortium Member. In no event will any individual Consortium Member be liable for the acts or omissions of the Consortium or any other Consortium Member.
- 10.3 The Consortium shall ensure that Consortium Members are familiar with, observe and comply with all ordinances, laws, and regulations which in any manner affect those engaged or employed in the work, or the materials, facilities or equipment used in the proposed work, or which in any way affect the conduct of the work, and shall protect and indemnify the City and its officers and agents against any claim or liability arising from or based on any violation of same.
- 10.4 Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought against the City, or its officers or employees, shall be subject to the maximum liability limits provided in Minnesota Statutes § 466.04 if the claim is within the scope of sections 466.01 to 466.15.

11 Insurance Requirements

The Consortium shall require Consortium Members, identified on Exhibit 1, responsible for providing Services, to obtain and maintain insurance coverage in the amounts shown below during the entire term of the Contract. The Consortium Member and any non-Consortium subcontractor hired by either, may combine the identified underlying coverage with umbrella coverage to meet the minimum limits identified below. The City shall be named as an additional insured on each Consortium Member's commercial general liability, auto, and umbrella policies. Certificates of said insurance evidencing all of the coverages listed below evidencing that the City has been named as an additional insured on the policies, shall be provided to the City by each Consortium Member one (1) month before the Commencement Date. Consortium shall not allow Consortium Member or subcontractor to commence Residential Collection Services until all requisite insurance has been obtained and evidence thereof have been provided to the City. The Consortium shall be responsible to assure that each Consortium Member shall maintain a valid certificate of insurance referencing the limits included below on file with the City. Consortium shall ensure that Consortium Member shall notify the City in the event insurance is cancelled or terminated for any reason.

11.1 General or Business Liability Insurance

- \$1,500,000 per occurrence
- \$2,000,000 aggregate per project
- \$2,000,000 products/completed operations total limit
- \$1,500,000 personal injury and advertising

11.2 Automobile Insurance

- \$1,000,000 Combined Single Limit
- Coverage shall include: hired, non-owned and owned autos

11.3 Worker's Compensation and Employer's Liability

- Worker's Compensation per Minnesota Statutes
- Employer's Liability shall have minimum limits of \$500,000 per accident; \$500,000 per employee; \$500,000 per disease policy limit.
- Consortium Members or contractors with 10 or fewer employees who do not have Worker's Compensation coverage are required to provide the City with a completed "Certificate of Compliance" (State of Minnesota form MN LIC 04) verifying their number of employees and the reason for their exemption.

11.4 General Insurance Requirements

- 11.4.1 All policies shall be written on an occurrence basis or as acceptable to the City. Certificate of insurance must indicate if the policy is issued on a claims-made or occurrence basis.
- 11.4.2 The Consortium may not commence any work until Certificates of Insurance covering all of the insurance required for this project is approved. Insurance must remain in place for the duration of the original contract and any extension periods.

12 Events of Default and Remedies

12.1 Liquidated Damages.

If any Consortium Member fails to perform in accordance with this Contract, then, within 180 days of discovery of such failure to perform, the City shall notify the Consortium Contract Officer and Consortium Member in writing that the City intends to initiate Liquidated Damage(s) if such failure to perform, if able to be cured, is not cured within the applicable time period. The City may not initiate or impose Liquidated Damage(s) more than 180 days after it becomes aware of the act or omission giving rise to the Liquidated Damage(s). The Consortium Member will have five (5) business days to respond with any information to dispute the allegation. The City will review the new information to determine whether Liquidated Damages are appropriate. The City will respond within five (5) business days to the disputed allegation. In the event that the City still wishes to impose Liquidated Damages, the City and the Consortium Member shall meet to discuss the incident. The City shall notify the Consortium Member of its final decision regarding the imposition of liquidated damages within five (5) business days of the meeting. After the above-stated process has been followed, and provided that the Liquidated Damages imposed on the Consortium Member would exceed \$1,000 in twelve (12) months, if the City has decided to pursue liquidated damages, the Consortium Member may notify the City that the Consortium Member would like to mediate the imposition of liquidated damages. Such notice must be provided within one hundred eighty (180) days of notice of receipt of the City's final decision to impose liquidated damages. If Consortium Member fails to submit the matter to mediation within 180 days, the Consortium Member shall be deemed to have accepted the last position of the City and the Consortium Member shall be obligated to pay liquidated damages. In the event that, following mediation, the Consortium Member still disputes the imposition of liquidated damages, the Consortium Member may initiate a civil action to resolve the dispute in which the City shall have the burden of proof to establish that liquidated damages are warranted. If the Consortium Member fails to initiate a civil action within 180 days, the Consortium Member shall be deemed to have accepted the last position of the City and the Consortium Member shall be obligated to pay liquidated damages. For purposes of Sections 2.21.3 and 2.21.7.2, such a dispute is not resolved until one of the following has occurred: 1) the parties so agree (at mediation or otherwise); 2) the Consortium Member fails to submit the matter for mediation or initiate a civil action within the timelines provided above; or 3) a court resolves the dispute.

If a Consortium Member's performance is not remedied in the time provided in this section 12.1 or otherwise disputed by Consortium or its Member within the time provided above, then the affected Consortium Member shall pay to the City, upon demand the amount designated below for the applicable violation. If the City does not receive such payment within ten (10) business days as provided in Section 2.21.4, City may, as its sole and exclusive remedy, draw from the Letter of Credit or the Escrow Account the amounts designated below for the applicable violation as Liquidated Damages.

If the City cannot identify the responsible Consortium Member, Consortium shall identify the Consortium Member who is assigned to the area where the incident occurred. Notwithstanding the foregoing, the Consortium and the Consortium Members shall not be

liable in any manner and shall not be considered in default or assessed any Liquidated Damages, for any failure to perform its obligations if such failure to perform is due to an event of Force Majeure or for any breach by the City or failure of an RDU, including failure to properly and timely set out materials.

- 12.1.1 Failure to collect legitimately missed RDUs by the end of the following business day after given notice: \$10 each RDU, capped at \$500.00. Liquidated Damages shall not be imposed for violation of this section and violation of sections 12.1.6 or 12.1.9 for a single incident.
- 12.1.2 Failure to clean up any spills caused by Consortium Member in the course of its collection by the end of the following business day after given notice: \$50 each instance.
- 12.1.3 Failure of Consortium Member to respond to complaints and/or customer service issues within one (1) business day: \$50 each instance.
- 12.1.4 In the case the City needs to intervene and communicate directly with an individual Consortium Member related to no response or resolution within one business days after receiving notice from the City to a customer complaint or service issue: \$100 each instance.
- 12.1.5 Causing hydraulic spills or leaks and other fluids having potential to damage or stain asphalt, concrete or other roadway surfaces and failure to clean up the same within 24 hours, or failure to notify the City of such a spill: \$100 each instance.
- 12.1.6 Unexcused failure to substantially complete a route (10% or more of route) on the regular pick up day, however no Liquidated Damages may be imposed if the Consortium Member notifies the City of the failure to complete the route the same day and completes the route the following day: \$1000 each route. Liquidated Damages shall not be imposed for a violation of this section and a violation of sections 12.1.1 or 12.1.9 for a single incident.
- 12.1.7 Failure of Consortium Member to provide reports to the Consortium as required under Section 19 of the Contract in a timely and accurate manner after given two business days written notice: \$250 each instance.
- 12.1.8 Failure to notify the City within 24 hours of any interruption in a significant portion (50% or more of the Collection Zone) of collection service: \$250 per instance.
- 12.1.9 Unexcused failure to complete a significant portion (50% or more of Collection Zone) of pickups within the Collection Zone on the scheduled collection day, however no Liquidated Damages may be imposed if the Consortium Member notifies the City of the failure to complete the Collection Zone the same day and completes the Collection Zone the following day: \$2500.00 each instance. Liquidated Damages shall not be imposed for a violation of this section and a violation of sections 12.1.1 or 12.1.6 for a single incident.
- 12.1.10 Failure to comply with the terms of the Service Quality and Service Disruption Avoidance Program (Exhibit 5) within 15 days of notification from the City shall result in liquidated damages of \$5,000 for every 30 days of noncompliance;

provided, however, that this basis for Liquidated Damages shall only apply to violations that are capable of being cured (e.g., not for failure to maintain a Driver Qualification File).

12.2 Events of Default. Subject to applicable cure periods, the following shall be additional Events of Default under this Contract which are not subject to Liquidated Damages as set forth above:

12.2.1 Consortium Events of Default: the following shall be Consortium Events of Default:

- (a) The dissolution of the Consortium.
- (b) The Contract or a portion of the Contract is assigned, subcontracted, or transferred by Consortium without the written consent of the City.
- (c) The Consortium fails to ensure that all Consortium Members providing Services comply with the insurance coverage requirements of Article 11.
- (d) The Consortium fails to have an operating agreement or subcontract indicating that requires Consortium Members to meet the obligations of Section 10.2.
- (e) Any voluntary or involuntary petition or similar pleading under any chapter, section or sections of the Bankruptcy Code or other insolvency law is filed by or against Consortium, or any voluntary or involuntary proceeding in any court or tribunal, is instituted to declare Consortium insolvent, and the same is not dismissed or discharged within ninety (90) days after the date of initiation of any such proceedings.
- (f) Consortium assigns its assets for the benefit of Consortium's creditors without prior written notice and agreement by the City.
- (g) A receiver is appointed for the Consortium or any of its property.
- (h) Consortium fails to remedy a curable violation of the terms of Exhibit 5 within 90 days of notice by the City.
- (i) Consortium fails to perform any material obligation of the Contract within seven (7) days after notice from the City that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, so long as the Consortium commences to cure such default within seven (7) days and diligently pursues the cure to completion, not to exceed sixty (60) days.
- (j) Any of the services or obligations to be performed under this Contract are abandoned by Consortium.
- (k) Consortium fails to take action to correct repeated Contract violations by a single Consortium Member where a single Consortium Member has had Liquidated Damages imposed for a violation of section 12.1 for 15 or more separate incidents in six (6) consecutive months; or a single Consortium Member has violated Exhibit 5 five or more times in six (6) consecutive months.

- (m) Failure to include an internal process to ensure Consortium Members provide Services in a manner that is consistent with this Contract and failure to take action against underperforming Consortium Members that is consistent with that process.

12.2.2 City Events of Default: The failure of the City to observe or perform any material covenant, representation, warranty, condition, obligation, or agreement on its part to be observed or performed under this Contract, and, in the case of failure to make payment under section 2.15, the continuation of such failure for a period of seven (7) days after written notice of such failure from the Consortium shall be an Event of Default for the City. For all other defaults, the Consortium is only entitled to take action if the City fails to cure its failure within thirty (30) days after notice from the Consortium to the City that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, and so long as the City fails to commence such action to cure such default within such thirty (30) days and fails to diligently pursue the cure to completion, not to exceed ninety (90) days. Notwithstanding the foregoing, if the default reasonably requires more than seven (7) days, or thirty (30) days as appropriate, to cure such default shall not constitute an Event of Default, provided that the curing of the default is promptly commenced upon receipt by the City of the notice of the default, and with due diligence is thereafter diligently and continuously prosecuted, not to exceed ninety (90) days, and provided that the City keeps Consortium well informed at all times of its progress in curing the default.

12.2.3 City Remedies on Default. If an Event of Default occurs, in addition to any other remedies available at law or in equity, the City may, without barring later election of any other remedy, exercise any one or more of the following remedies at the City's election, in any order or combination; provided, however, that the City is only entitled to take the actions described below if the Consortium fails to perform within thirty (30) days after notice from the City to the Consortium that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, and so long as the Consortium fails to commence such action to cure such default within such thirty (30) days and fails to diligently pursue the cure to completion, not to exceed ninety (90) days:

- (a) Terminate a Consortium Member's right to provide Services to RDUs with or without terminating the Contract, in which event the Consortium's Collection Zones previously serviced by that Consortium Member, as depicted in Exhibit 2, shall be re-allocated among the remaining Consortium Members as determined by the Consortium.
- (b) Consortium agrees that Consortium Members shall be liable to the City for all excess costs sustained by the City by reason of the Consortium Member's breach and for which liquidated damages are not imposed provided for under Section 12.2.1. The City shall deduct such costs from the responsible Consortium Member's Letter of Credit or Escrow Account when allowed under Section 2.21 of this Contract. If the City cannot identify the responsible Consortium Member, the Consortium shall

identify the Consortium Member assigned to the area where the incident occurred and report that information to the City.

- (c) Withhold payment of outstanding balances for RDUs who are in non-payment status from the Consortium Member responsible for the Default.
- (d) The City may cancel and terminate the Contract.
- (e) Subject to the limitations set forth in this 12.2.3, the City may take whatever action at law or in equity may appear necessary or desirable to the City to collect any payments due under this Contract or to enforce performance and observance of any obligation, agreement, or covenant of the Consortium under this Contract or to recover damages against the Consortium Member responsible for the default.

The City has entered into this Contract with the full knowledge and understanding that the Consortium has and may never have any assets, cash, revenues, or funds. It is therefore understood and the City agrees that should there be an Event of Default by the Consortium pursuant to this Contract the City's sole remedies against the Consortium shall be for specific performance or termination, provided that the City may elect to recover against and the Consortium Members agree to allow the City to seek damages from and against a Consortium Member directly responsible for violating its obligations to perform Residential Collection Services pursuant to this Contract. Consortium agrees that its operating agreement shall require each Consortium Member to agree to allow the City to seek damages from such a responsible Consortium Member directly.

- 12.2.4 Consortium Remedies on Default. Whenever any Event of Default occurs by the City, the Consortium may enforce any of its rights and remedies available in law or in equity as it deems necessary or desirable, including, to enforce performance and observance of any obligation, agreement, representation, warranty, or covenant of the City under this Contract. Except in the case of non-payment of amounts due to Consortium, Consortium is only entitled to take such action if the City fails to perform within thirty (30) days after notice from the Consortium to City that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, and so long as the City fails to commence such action to cure such default within such thirty (30) days and fails to diligently pursue the cure to completion, not to exceed ninety (90) days.

NEITHER PARTY SHALL BE LIABLE FOR, AND THE OTHER PARTY WAIVES ANY CLAIM AGAINST THE FIRST PARTY FOR, ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS CONTRACT OR ANY SERVICES UNDERTAKEN OR ARISING FROM THIS CONTRACT.

12.3 Mediation

All claims, disputes or other matters in question between the parties to this Contract arising out of or relating to this Contract or breach thereof, including disputes regarding the City's imposition of liquidated damages to the extent allowed in Section 12, shall be referred to non-binding mediation before, and as a condition precedent to, the initiation of

any legal action hereof, or provided for herein. Each party agrees to participate in up to two hours of mediation per dispute. The mediator shall be selected by the parties, or if the parties are unable to agree on a mediator, then any party can request the administrator of the Ramsey County District Court Civil ADR Program and/or similar person, to select a person from its list of qualified neutrals. The mediation shall be attended by employees or agents for each party having authority to settle the dispute. All expenses related to the mediation shall be borne by each party, including without limitation, the costs of any experts or legal counsel. All applicable statutes of limitations and all defenses based on the passage of time are tolled while the mediation procedures are pending, and for a period of thirty (30) days thereafter. This section shall not apply to Section 3.1.4.2 of this Contract.

13 Policy

13.1 Records, Dissemination of Information.

13.1.1 For purposes of this Contract, the following words and phrases shall have the meanings set forth in this section, except where the context clearly indicates that a different meaning is intended.

“Work product” shall mean any report, recommendation, paper, presentation, drawing, demonstration, or other materials, whether in written, electronic, or other format that results solely and exclusively from Consortium’s or Consortium Member’s services under this Contract.

“Supporting documentation” shall mean any surveys, questionnaires, notes, research, papers, analyses, whether in written, electronic, or in other format and other evidences used to generate any and all work performed and work products generated under this Contract.

“Business records” shall mean any books, documents, papers, account records, route maps, customer lists and other evidences, whether written, electronic, or in other form, belonging to Consortium or Consortium Member and solely and exclusively pertaining to work performed under this Contract.

13.1.2 The Consortium agrees not to release, transmit, or otherwise disseminate information associated with or generated as a result of the work performed under this Contract without prior knowledge and written consent of the City, unless the Consortium is legally required to do so.

13.1.3 In the event of termination, all documents finished or unfinished, and supporting documentation prepared by the Consortium under this Contract, shall be delivered to the City by Consortium by the termination date and there shall be no further obligation of the City to Consortium.

13.1.4 Pursuant to and in compliance with Minn. Stat. § 16C.05, subd. 5, the Consortium and Consortium Members shall maintain all business records in such a manner as will readily conform to the terms of this Contract and to make such materials available at its office at all reasonable times during this Contract period and for six (6) years from the date of termination for audit or inspection by the City, the Auditor of the State of Minnesota, or other duly authorized representative. Any

such audit or inspection shall (a) occur during the Consortium's normal business hours and at Consortium's place of business; (b) not disrupt the operation of Consortium's business; (c) require at least ten (10) business days prior written notice; (d) occur no more than once in any given twelve (12) month period; (e) be at the sole cost and expense of the inspecting or auditing party.

13.1.5 The Consortium agrees to abide strictly by Chapter 13, Minnesota Government Data Practice Act, and in particular Minn. Stat. §§ 13.05, subd. 6 and 11; and 13.37, subd. 1 (b) and Minn. Stat. §§ 138.17 and 15.17. All of the data created, collected, received, stored, used, maintained, or disseminated by the Consortium in performing functions under this Contract is subject to the requirements of the Minnesota Government Data Practices Act and Consortium must comply with those requirements as if it were a governmental entity. If any provision of this Contract is in conflict with the Minnesota Government Data Practices Act or other Minnesota state laws, state law shall control.

13.2 ADA

The Consortium shall ensure that Consortium Members comply with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 and not discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. The appropriate Consortium Member agrees to hold harmless and indemnify the City from costs, including but not limited to damages, attorney's fees, and staff time, in any action or proceeding brought alleging a violation of ADA and/or Section 504 caused by the Consortium Member.

13.3 City Requirements

13.3.1 Human Rights/Affirmative Action/Economic Opportunity.

- (a) The Consortium shall ensure that Consortium and individual Consortium Members comply with the City of Saint Paul's Human Rights Department's Affirmative Action Requirements in Employment pursuant to Section 183.04 of the Saint Paul Legislative Code, the Rules Governing Affirmative Requirements in Employment as provided in Exhibit 6. The Consortium agrees to comply with all federal, state and local laws, resolutions, ordinances, rules, regulations and executive orders pertaining to unlawful discrimination on account of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status, or status with regard to public assistance and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to the same.
- (b) The Consortium shall ensure that Consortium and Consortium Members and, if the Consortium has employee(s), the Consortium itself, complete and submit to the Department of Human Rights and Equal Economic Opportunity an Affirmative Action Program Registration form along with a \$75 registration fee (City of Saint Paul Administrative Code Ordinance 86.06 and City of Saint Paul Legislative Code Ordinance 183.04).

13.3.2 Vendor Outreach. The Consortium agrees to comply with and shall cause its non-Consortium subcontractors to comply with the City's Vendor Outreach Program as required by Chapter 84 of the St. Paul Administrative Code. In entering into subcontracts with non-Consortium Members, Consortium and subcontractors shall meet the requirements set forth in Exhibit 7 attached hereto and incorporated herein.

13.3.3 Living Wage. The Consortium agrees to comply with and shall cause Consortium Members and any non-Consortium subcontractors to comply with the requirements of the Saint Paul Living Wage and Responsible Public Spending Ordinance codified as Chapter 98 of Saint Paul Administrative Code ("Living Wage Ordinance") and make payment of a living wage to eligible persons covered by the Living Wage Ordinance in compliance with the requirements of Exhibit 8. Family members of owners of individual Consortium Members are exempt from this requirement.

13.3.4 Compliance Conference. Consortium shall ensure that all Consortium Members and any non-Consortium subcontractors attend a compliance conference prior to the beginning of any Services. The compliance conferences shall be conducted by City staff and are held for the benefit of and to provide information to all participating Consortium Members and any non-Consortium subcontractors. Each area of compliance is reviewed by the appropriate City staff member and forms are distributed for documentation and reporting. City staff will explain the documentation at this time and will provide ongoing technical assistance in an effort to keep the report requirements up to date. Any new Consortium member or non-Consortium subcontractor identified after the initial conferences shall arrange to attend a subsequent conference unless such attendance is waived by the City. Failure to attend a compliance conference will not excuse the obligation to be aware of all compliance requirements.

13.3.5 Consortium shall incorporate in all contracts and Non-Consortium subcontracts for Services the requirements of this Section and to cause all Consortium Members and Non-Consortium subcontractors for Services to incorporate the requirements of this Section in all subcontracts for Services.

13.4 Saint Paul Service Disruption and Service Quality Assurance Program

The Consortium agrees to comply with the Saint Paul Service Disruption and Service Quality Assurance Program as set forth in Exhibit 5 attached hereto and incorporated herein.

13.5 Conflict of Interest

Consortium's acceptance of this Contract indicates compliance with Chapter 24.03, City of Saint Paul Administrative Code: "Except as permitted by law, no city official or employee shall be a party to or have a direct financial interest in any sale, lease, or contract with the City."

Consortium also affirms that to the best of the Consortium's knowledge, its involvement in this contract does not result in a conflict of interest with any party or entity which may be affected by the terms of this contract. The Consortium agrees that should any conflict or potential conflict of interest become known to the Consortium, it will immediately notify the City of the situation so

that a determination can be made about Consortium's ability to continue performing Services under this Contract.

13.6 Force Majeure

The City, the Consortium and the Consortium Members shall not be held responsible for performance if its performance is prevented by acts or events beyond the party's reasonable control, including, but not limited to: severe weather and storms, earthquake or other natural occurrences, strikes and other labor unrest, power failures, electrical power surges or current fluctuations, nuclear or other civil military emergencies, or legislative, judicial, or executive acts (each of the forgoing, a "Force Majeure Event"). The time period for the performance in question shall be extended for only the actual amount of time said party is so delayed.

14 Reserved

15 Notices

15.1 Address

Any notice or demand required or permitted to be given or made thereunder shall be sufficiently given or made by e-mail, messenger delivery, overnight delivery, or certified mail in a sealed envelope, postage prepaid, addressed as follows:

If to City:

If to Consortium:

Either party may change the address to which notices may be sent by furnishing written notice of such change to the other party.

Notice delivered by messenger, overnight delivery, or e-mail shall be deemed received upon delivery. Notice delivered by mail shall be deemed to have been given as of the date three (3) days after the U.S.P.S. postmark date.

16 Severability

If any of the provisions of the Contract are determined by a court of competent jurisdiction to be invalid, such provisions shall be deemed to be stricken, and such adjudication shall not affect the validity of the remainder of the terms of this Contract as a whole or of any section, subsection, sentence or clause not adjudged to be invalid so long as the material purposes of this Contract can be determined and effectuated.

If the Consortium shall discover any provision in the specifications or the Contract which is contrary to or inconsistent with any law, ordinance or regulation, the Consortium shall immediately report it to the City in writing.

17 Governing Law and Venue

All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Contract shall be controlled by and determined in accordance with the laws of the State of Minnesota, and the Consortium and Consortium Member agrees that all legal actions initiated by the Consortium, Consortium Members, or the City with respect to or arising from any provision contained in this Contract shall be initiated, filed, and venued exclusively either in Ramsey County District Court, Ramsey County, Minnesota or within the U.S. District Court for the District of Minnesota.

18 Right to Require Performance

- 18.1 The City's failure at any time to require performance by the Consortium of any of the specifications in the Contract shall in no way affect the right of the City thereafter to enforce same. The Consortium's failure at any time to require performance by the City of any of the specifications in the Contract shall in no way affect the right of the Consortium thereafter to enforce same.
- 18.2 If any agreement contained in this Contract should be breached by either party and thereafter waived by the other party in writing, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous, or subsequent breach hereunder. There shall be no implied waiver of any provision of this Contract. Any waiver must be in writing and signed by the party to be held to the waiver.

19 Option to Change Service; Amendments

19.1 City Options

- 19.1.1 The City shall have the option to request a change in the scope of work performed under the terms of the Contract, including, without limitation, changing the types of material collected, the method of handling, collecting, or disposing of the collected Trash; provided, that any change in scope of work will require a change in compensation terms under this Contract.
- 19.1.2 The City shall request a change in Services by serving written notice to the Consortium at its designated place of business at least ninety (90) days before the date such change in the scope of work is contemplated to begin.
- 19.1.3 Immediately after written notice is served, the parties shall enter into good faith negotiations concerning the terms, frequency, and the details of pricing the services being requested.
- 19.1.4 Any modification or amendments to the Contract shall be in writing and shall be signed by both parties.

20 Electronic Signature

An electronic signature or a signature transmitted by an electronic means is deemed as effective and valid as an original signature.

21 Survival of Obligations

The respective obligations of the Parties under these terms and conditions, which by their nature would continue beyond the term of this Contract, survive termination, cancellation or expiration of this Contract.

22 Entire Contract

This executed Contract supersedes all oral Contracts and negotiations between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of the executed Contract shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

23 Signature Page - City

In witness hereto, the City and the Consortium have executed this document as of the day and year first above written.

CITY OF SAINT PAUL MINNESOTA,
A Minnesota Home Rule Charter city

By: Kristin L. Beckmann Date: 11.14.17
Christopher B. Coleman

Its: Mayor

By: Todd Hurley Date: _____
Todd Hurley

Its: Finance Director

By: Kathy Lantry Date: 11-14-17
Kathy Lantry

Its: Director of the Department of Public Works

Reviewed and Approved:

Rachel G. Tierney Date: 11/14/17
Rachel G. Tierney

Deputy City Attorney

23 Signature Page – Consortium

In witness hereto, the Consortium has executed this document as of the day and year first above written.

By: Romack Franklin 11/14/17

Its: ORGANIZER

EXHIBIT F



Legislation Text

File #: RES 18-1760, **Version:** 1

Adopting the report of Ramsey County Elections finding that the petition for a referendum on Ord18-40 is sufficient.

WHEREAS, Saint Paul City Charter Section 8.01 states that “[t]he people shall have the right to ... require ordinances to be submitted to a vote ... by a process known as ... referendum”; and

WHEREAS, on August 8, 2018, the Council adopted Ord. 18-40 which was signed by Mayor Carter on August 9, 2018 and published on August 13, 2018; and

WHEREAS, a petition seeking a referendum to repeal Ord. 18-40, amending Chapter 357 of the Legislative Code to regulate coordinated collection was filed with the Office of the City Clerk on September 27, 2018 (the “Petition”); and

WHEREAS, City Charter Chapter 8 requires a petition for referendum to be signed by registered voters equal in number to eight (8) percent of those who voted for the office of mayor in the last preceding city election; and

WHEREAS, the last preceding city election was held November 7, 2017; and

WHEREAS, according to the Ramsey County Elections Manager, there were 61,646 first choice votes cast for Mayor in the 2017 election, meaning that the required number of signatures for the Petition is 4,932; and

WHEREAS, the Ramsey County Elections Manager, who supervises elections on behalf of the City, has reported to the Council that Petition signatures have been checked for compliance with the requirements of Chapter 8 of the Saint Paul City Charter; and

WHEREAS, the Ramsey County Elections Manager reports that the Petition contains 5,919 signatures, and that 5,071 of those comply with the Charter’s requirements; and

WHEREAS, Saint Paul Legislative Code Chapter 357 is the Solid Waste Chapter of the City’s licensing code; and

WHEREAS, Ord. 18-40 amended Leg. Code Chapter 357 by doing the following:

- ☐ Adding the term “Authorized Coordinated Collection Program” as a program for the collection and processing of mixed municipal solid waste, yard waste and other items included by the City for residential properties that consist of one, two, three or four dwelling units which is instituted, sponsored authorized or controlled by the City of Saint Paul.
- ☐ Exempting haulers who participate in an authorized coordinated collection program from submitting documentation on amounts of materials collected each year.
- ☐ Exempting haulers who participate in an authorized coordinated collection program from submitting a schedule of advertised charges.
- ☐ Changing the maximum capacity for solid waste containers from thirty-two (32) to ninety-eight (98) gallons.
- ☐ Clarifying where yard waste can be stored.
- ☐ Allowing properties on an extended leave to temporarily discontinue service if they are

- served by a an authorized coordinated collection program.
- ☐ Changing the date for the start of yard waste collection from April 1 to April 15.
- ☐ Clarifying terms related to composting.
- ☐ Removing redundant language.
- ☐ Allowing enforcement of the chapter to be either by the department of public works or the department of safety and inspections.
- ☐ Removing obsolete date references; and

WHEREAS, upon advice of the City Attorney, there are no legal deficiencies with the petition; now, therefore, be it

RESOLVED, that the City Council hereby adopts the report of the Ramsey County Elections Manager and finds that the Petition for a referendum on Ordinance 18-40 is sufficient to satisfy the minimum signature requirements under City Charter Chapter 8; and be it

FURTHER RESOLVED that the Council requests that City Attorney prepare an ordinance for the Council to repeal Ordinance 18-40.

EXHIBIT G



Legislation Text

File #: Ord 18-40, **Version:** 1

Amending Chapter 357 of the Legislative Code to regulate coordinated collection.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1

Chapter 357 of the Saint Paul Legislative code is hereby amended to read as follows:

Section 357.01. - License required; exceptions.

- (a) *License required.* No person shall collect, transport, transfer, treat, handle, salvage, utilize, compact, shred, compost, mill, bale, process or dispose of, or any combination thereof, any mixed municipal solid waste, construction debris, compostable materials or recyclable materials in Saint Paul without a license issued pursuant to the provisions contained in this chapter.
- (b) *Exceptions.* This licensing provision shall not apply to governmental agencies engaged in such activities. Persons who transport, transfer, compact, shred, compost or bale in connection with their own separated recyclable materials and yard waste generated at premises owned or occupied by them are exempt. Persons engaged in recycling activities and licensed under Chapter 408, motor vehicle salvage dealers under Chapter 422 or scrap and metal processors under Chapter 420, or which are hereafter licensed under any other provisions of the Legislative Code regulating recycling activities, are exempt from the license requirements contained in this chapter.

Section 357.02. - Definitions.

For the purpose of this chapter, the following terms shall have the meaning indicated in this section:

Authorized recycling program is a program for the collection and processing of recyclable materials which is instituted, sponsored, authorized or controlled by the City of Saint Paul.

Authorized Coordinated Collection Program is a program for the collection and processing of mixed municipal solid waste, yard waste and other items included by the City for residential properties that consist of one, two, three or four dwelling units which is instituted, sponsored, authorized or controlled by the City of Saint Paul.

Collection is the aggregation of mixed municipal solid waste, yard waste and/or separate waste streams from the place at which it is generated and includes all activities up to the time the mixed municipal solid waste, yard waste and/or separate waste stream is delivered to a waste facility.

Compostable materials include but are not limited to kitchen wastes, food wastes, paper wastes, and other clean organic wastes, but not including yard waste.

Composting means the controlled microbial degradation of organic waste to yield a humus-like product.

Construction debris is waste building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

Corrugated cardboard is heavy paper with alternating ridges and grooves for use in packing or boxing material but does not include paperboard packaging.

Disposal facility is a mixed municipal solid waste facility permitted by the Minnesota Pollution Control Agency that is designed or operated for the purpose of disposing of mixed municipal solid waste on or in the land, together with any appurtenant facilities needed to process waste for disposal or transfer to another facility.

Garbage includes all discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Household battery is any of a variety of small and button batteries used in flashlights, electronics, toys, portable appliances, hearing aids, pacemakers, watches, etc., commonly known as alkaline, Leclanche (carbon-zinc), nickel-cadmium, mercury, silver, zinc air or lithium batteries.

Incineration is the process of burning wastes for the purpose of volume and weight reduction in facilities designed for such use.

Incinerator shall mean any furnace or other device used in the process of burning mixed municipal solid waste for the purpose of reducing the volume of the waste by removing combustible matter.

Land pollution is the presence in or on the land of any waste in such quantity, of such nature and duration, and under such conditions as would injuriously affect any waters of the state, create air contamination, cause air pollution, attract rodents or vermin, cause a health hazard or otherwise create a nuisance.

Lead acid battery is a motor vehicle battery.

Major appliances include but are not limited to refrigerators, freezers, stoves, ovens, dishwashers, clothes washers and dryers, hot water heaters, trash compactors, garbage disposals, air conditioners, residential furnaces, dehumidifiers, and microwave ovens.

Mixed municipal solid waste shall mean garbage, refuse and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include recyclable materials, auto hulks, street sweepings, ash, construction debris, mining waste, sludge, tires, lead acid batteries, used oil, infectious waste and other materials collected, processed and disposed of as separate waste streams.

Mixed municipal solid waste hauler is an agency, business or service, either governmentally or privately operated, for collecting, transferring, compacting and/or transporting mixed municipal solid waste, recyclable materials and/or yard waste for processing, for disposal or composting purposes.

Mixed municipal solid waste processing or disposal operations are the site or sites, facilities, operating practices and maintenance thereof for the utilization, processing, treating or final disposal of mixed municipal solid wastes, including, but not limited to, land disposal, incineration, composting, reduction, shredding, compressing, milling, baling, resource recovery, and salvage of such mixed municipal solid wastes.

Newsprint is printed, ground-wood newspaper.

Processing is the treatment of waste after collection and before disposal. Processing includes, but is not limited to, reduction; storage; separation; exchange; resource recovery; physical, chemical or biological modification; and transfer from one (1) waste facility to another.

Recyclable glass, for the purpose of this chapter, includes jars, bottles and containers that are transparent or translucent and primarily used for packaging and bottling of various matter(s), but does not include mirror or window glass, ceramics, crockery or other glassware containing lead.

Recyclable materials shall mean materials that are separated from mixed municipal solid waste for the purpose of recycling, including, but not limited to, wood, paper, glass, metal, and other materials to the extent the director of the public works department determines that these or other materials may be reasonably and feasibly recycled.

Recyclable metals, for the purposes of this chapter, are all food and beverage containers constructed primarily of aluminum, steel, bimetal and "tin."

Recyclable paper materials, for purposes of this chapter, are newsprint, boxboard, school and office paper, magazines, and corrugated cardboard. ~~and magazines.~~

Recyclable plastic materials, for the purpose of this chapter, means containers (bottles, tubs, jugs) used for food and beverages, laundry/bathroom products, and small storage containers.

Recycling is the process of collecting and preparing recyclable materials and reusing them in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

Refuse is putrescible and nonputrescible solid waste, except body wastes, and includes garbage and rubbish.

Scavenging is the unauthorized collection of recyclable materials that have been set out by persons for participation in authorized recycling programs.

Separate waste streams are materials that are collected, processed or disposed of separately from mixed municipal solid waste, including, but not limited to, construction debris, compostable materials, auto hulks, street sweepings, ash, earthen fill, boulders, rocks and other material normally handled in construction operations, mining waste, tree and agricultural wastes, yard waste, tires, lead acid batteries, used motor oil and major appliances.

Tire is a pneumatic tire or solid tire for motor vehicles.

Transfer station is an intermediate facility in which mixed municipal solid waste or other separate waste streams are collected from any source and temporarily deposited to await transportation to another waste facility.

Used motor oil is motor oil which through use, storage or handling has become unsuitable for its original purpose due to impurities or loss of original properties.

Volume-based rate is a mixed municipal solid waste collection and disposal charge based on the number of gallons or cubic yards and the weight of the mixed municipal solid waste.

Waste facility means any facility as defined in Minn. Stat. § 115A.03(35) and for which a license is required under the provisions of the Ramsey County Solid Waste Ordinance.

Waste storage is the holding of mixed municipal solid waste, yard waste and/or separate waste streams at or near the point of generation.

Waste transportation is the conveying of mixed municipal solid waste, yard waste and/or separate waste streams from one (1) place to another by means of vehicle, rail car, water vessel, conveyor or other means.

Yard waste shall mean lawn cuttings, leaves, weeds, garden wastes and soft bodied plants.

Section 357.03. - Fee.

The license fee required for each site, location, vehicle, facility, or for each collector or hauler of mixed municipal solid waste, recyclable materials or compostable materials shall be determined by city council resolution. The fee required for a license shall also be established by ordinance as specified in section 310.09 (b) of the Saint Paul Legislative Code.

Section 357.04. - Licensing requirements.

- (a) *Application.* When the application is submitted in complete form, together with any required site plan and specifications, the inspector shall transmit it for review and approval to the department of safety and inspections, and to the department of public works. The inspector shall determine whether a license is required by either the county or the state pollution control agency and, if required, whether the appropriate license has been obtained.
- (b) *Issuance of licenses.* If found to be satisfactory, the inspector shall issue the license; or if not satisfactory, the inspector shall immediately notify the applicant of the reason and shall proceed in accordance with section 310.05.
- (c) *Insurance.* No license shall be granted or shall become effective until the licensee shall have filed with the inspector a copy of certificate of insurance protecting the licensee from claims for damages and bodily injuries, including accidental death, as well as for claims for property damage which may arise from operations involving all phases of mixed municipal solid waste or disposal operations, as herein defined, in Saint Paul. The minimum amounts of such public liability insurance for bodily injury and property damage shall be determined by city council resolution upon the recommendation of the license inspector and the risk manager.

Insurance policies shall run concurrently with the license period, and copies or certificates of such policies shall be filed with the inspector prior to the issuance or reissuance of a license.

- (d) *Reporting.* Every mixed municipal solid waste hauler shall submit with the application documentation on amounts collected during the previous year of mixed municipal solid waste, recyclable materials and compostable materials from residential, commercial, institutional and industrial buildings for delivery to a resource recovery facility approved by Ramsey County. The license inspector may require submittal of lists of actual residential customers. The city shall keep customer lists strictly private as trade secret information pursuant to the provisions of Minn. Stat. § 13.37 or as amended. This section shall not apply to mixed municipal solid waste that is collected as a part of an Authorized Coordinated Collection Program.

Section 357.05. - Regulations.

- (a) *Applicability.* These regulations and standards shall apply to the storage, collection, transportation, treatment, handling, utilization, processing and final disposal of all mixed municipal solid waste and separate waste streams, and the supervision, inspection and control of all facilities and equipment, including operation and maintenance of such facilities and equipment, in connection with the mixed municipal solid waste and separate waste streams for the protection of the health, safety and general welfare of the public in Saint Paul.

The responsibility for compliance with these regulations and standards shall be with the owner and/or occupant of any premises, business establishment or industry, and the owner and/or operator of any

equipment or facilities involved in the storage, collection, transportation, treatment, handling, utilization, processing and final disposal of mixed municipal solid waste and separate waste streams.

- (b) *License to be displayed.* All licenses issued in accordance with this chapter shall be displayed where they can be readily seen in or on the site, facility or equipment for which the license is issued and in accordance with public works department rules and regulations.
- (c) *Schedule of charges.* Except for charges that are imposed under an Authorized Coordinated Collection Program, each licensee shall submit to the inspector a schedule of advertised charges in connection with his operation or service at the time of the application for license.

Charges for mixed municipal solid waste services provided after July 1, 1994, must be submitted on a form provided by the inspector and based on the number of mixed municipal solid waste containers serviced by the licensee. Volume-based rates must be offered which limit the total amount of mixed municipal solid waste to be collected and shall be in proportion to the amount or weight of mixed municipal solid waste collected and shall differ significantly and incrementally one from another. At a minimum, volume-based rates must be offered for three (3) levels of single-family through fourplex residential service. The levels of service are for one (1), two (2) and three (3) containers of mixed municipal solid waste. Refuse haulers must provide written notice to their customers at least twice yearly of their volume-based rate structure and must provide information on their volume-based rate structure to new customers, including those acquired from other refuse haulers.

Charges shall not be changed except by submitting a revised schedule of charges to the inspector no more than ten (10) days after the effective date of the changes. The inspector shall report the revised charges to the department of public works within thirty (30) days of the effective date of the changes. Any licensee who shall charge, or change charges contrary to the above procedure shall be required to appear before the city council for consideration of license revocation.

- (d) *General regulations; premises.* In connection with mixed municipal solid waste and/or separate waste stream processing or disposal operations licensed under this chapter, the entire operation shall be carried on in a manner that does not create excessive noise, dust or odors.

Adequate fire protection shall be provided in loading, unloading, storage and handling areas. An adequate, continuous rodent and insect control program shall be carried on at the site.

Waste facilities shall be located in areas that are properly zoned, shall be licensed by Ramsey County for the purpose and shall be equipped, operated and maintained in such a way as to minimize the interference with other activities in the area. Adequate sanitary facilities shall be provided at the facility for employees.

- (e) *Identifying sign.* A sign shall be posted at the entrance of the facility identifying the operation and indicating the normal hours of operation, and access to the facility shall be provided only during the posted hours. The sign shall be in compliance with the requirements of the Minnesota Pollution Control Agency as well as the provisions of this chapter and the city zoning code.

(f) *Mixed municipal solid waste and/or separate waste stream storage:*

- (1) Responsibility: The owner and/or occupant of any premises, business establishment or industry shall be responsible for the safe and sanitary storage of all mixed municipal solid waste and/or separate waste streams accumulated or stored at that premises, business establishment or industry. Storage containers located within a public right-of-way must be kept clear of snow to allow the free flow of traffic around such containers at all times.
- (2) Containers: Refuse when stored out-of-doors shall be stored in durable, rust-resistant, nonabsorbent, watertight, rodent-proof, easily cleanable containers with closefitting, fly-tight covers that are fully closed. The maximum capacity for mixed municipal solid waste storage containers intended to be handled manually during collection shall be ~~thirty-two (32)~~ ninety-eight (98) gallons, ~~and may not exceed thirty (30) pounds in weight.~~ Refuse shall be stored in durable containers with proper covers. ~~In no case shall the out-of-doors storage of refuse in plastic bags be allowed.~~ Other types of mixed municipal solid waste containers which may not meet all of the requirements above but which will facilitate mixed municipal solid waste storage, handling and collection in a safe and sanitary way may be approved by the department of public works. All containers for the storage of mixed municipal solid waste or other waste streams shall be maintained in a manner which will prevent the creation of a nuisance or menace to the public health, safety and general welfare. Containers which are damaged, broken or otherwise create a nuisance or menace to public health, safety and general welfare shall be replaced with acceptable containers.

Yard waste must be stored separately from mixed municipal solid waste. Lawn clippings, leaves, weeds and garden waste must be stored in a wheeled, lidded cart, compostable clearly marked plastic bags, paper biodegradable bags, or a permanent container which is identified as containing yard waste. The maximum capacity for yard waste bags or containers intended to be handled manually during collection shall be ~~thirty-two (32)~~ ninety-eight (98) gallons. The maximum capacity for a compostable bag intended to be handled during collection shall be thirty-five (35) gallons and may not exceed forty (40) pounds in weight. ~~and may not exceed thirty (30) pounds in weight.~~ Other types of yard waste containers which may not meet the requirements above but which will facilitate yard waste storage, handling and collection in a safe and sanitary way may be approved by the department of public works. All containers for the storage of yard waste shall be maintained in a manner which prevents the creation of a nuisance or menace to the public health, safety and general welfare. Containers which are damaged, broken or otherwise create a nuisance or menace to public health, safety and general welfare shall be replaced with acceptable containers.

- ~~(3)~~(g) Storage of toxic or hazardous materials, infectious waste, pathological waste: Toxic or hazardous materials, infectious waste and pathological waste to be disposed of shall be stored and handled in accordance with federal and state law. Construction debris containing asbestos or other hazardous materials must be stored and disposed of in accordance with federal and state law, and may not be placed in the standard construction debris waste stream, or stored in containers intended for mixed municipal solid waste, construction debris, recyclable materials, or any other nonhazardous waste.

- ~~(4)~~(h) Dumpsters and roll-offs-Advisory to be affixed: Dumpsters and roll-off containers intended for storage of mixed municipal solid waste or separate waste streams must have an advisory statement

prominently affixed, describing the nature of the materials intended to be stored in the dumpster or roll-off, as well as common categories of materials that may not be placed in the dumpster or roll-off. Advisory statements must be approved in advance by the department of safety and inspections.

(5)(i) Location of containers: Containers for storage of mixed municipal solid waste, ~~and/or~~ yard waste, recyclables or compostable materials shall be kept in locations that do not create a nuisance and the locations shall be maintained in a manner acceptable to the department of public works or department of safety and inspections. In no case shall the containers, overflow trash bags, holiday trees, organics waste, overflow yard waste or bulky items, be kept beyond the alley line or in front of the established building line as defined in the zoning code or on boulevards except on the day of collection.

(6) (j) Mixed municipal solid waste not suitable for storage in containers includes: furniture, tires, lead acid batteries, used motor oil, major appliances and similar items and shall be stored in a manner so as not to create a nuisance or a rat harborage. Trees, tree limbs, brush, scraps of wood and similar items must be tied in bundles of suitable size for handling during collection. Used motor oil must be placed in a suitable container with a tight-fitting lid and clearly labeled as containing used motor oil.

~~(g)~~(k) *Collection and transportation:*

(1) Operations and facilities: Vehicles or containers used for the collection and transportation of mixed municipal solid waste or other separate waste streams shall be durable, rust-resistant, leak-proof and easily cleanable with tight-fitting covers of a type approved by the department of public works. Vehicles or containers shall be maintained in good repair and shall be properly cleaned to prevent a nuisance or insect breeding. Vehicles and containers used for the collection and transportation of all mixed municipal solid waste or other waste separate waste streams shall be loaded and moved in such a manner that contents will not fall, spill or leak therefrom and shall be covered to prevent blowing of material. Where spillage does occur for any reason, the material spilled shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned up.

Mixed municipal solid waste from any premises, business establishment or industry must be collected by a licensed hauler at least once every fourteen (14) ~~seven (7)~~ calendar days and in accordance with Chapter 34.11, unless an RDU has an Extended Leave Suspension of services as defined by Chapter 220 of the Legislative Code. Unless mixed municipal solid waste is collected under an Authorized Coordinated Collection Program, ~~T~~the owner of the premises, business establishment or industry must show evidence, including, but not limited to, receipt, canceled check or other similar evidence, of hauling service. This section shall not preclude abutting property owners who are not part of an Authorized Coordinated Collection Program from cooperating for arranging for collection services from a licensed hauler, nor other arrangements for reasonable interruption of service.

Yard waste set out for collection must be removed from any premises, business establishment or industry at least once every seven (7) calendar days during the period from April ~~first~~ fifteenth to November thirtieth. This provision does not apply to composting permitted by section 357.08.

- (2) Toxic or hazardous material, infectious waste, pathological waste: Toxic or hazardous materials, infectious waste and pathological waste shall be disposed of in accordance with applicable federal and state laws.
- (3) Name of licensee displayed: All vehicles and equipment licensed hereunder shall have, on each side of such vehicle and equipment in a position where it may be clearly seen, the name of the licensee in block letters not less than two (2) inches high, painted in a contrasting color.
- (4) Collection every week: ~~Effective January 1, 1991,~~ eEach licensed mixed municipal solid waste collector shall, at least every seven (7) calendar days, separately collect and transport yard waste, or make available those services, to a site or sites approved for yard waste composting, during the period from April first fifteenth through November thirtieth.
- (5) Hours of collection-Residential areas: A solid waste collector licensed under this section may only collect mixed municipal solid waste or separate waste streams between the hours of 6:00 a.m. and 10:00 p.m. in residential areas of the city.

~~(h)~~(l) *Transfer, treatment or otherwise handling of mixed municipal solid waste and/or separate streams:*

- (1) Responsibility: The owner and/or occupant of any premises, business establishment or industry involving a facility operated for the transfer, treatment, salvaging, composting, shredding, compacting, processing or otherwise handling mixed municipal solid waste and/or separate waste streams shall be responsible for the maintenance of the facility in a manner which is not detrimental to the health, safety and general welfare of the public and is in accordance with the provisions of this chapter and the rules and requirements of the department of public works.
- (2) Operations and facilities: All operations and facilities for the transfer, treatment, salvaging, composting, compacting, shredding, processing or otherwise handling mixed municipal solid waste and/or separate waste streams shall be carried on in facilities designed for the purpose and approved by Ramsey County, the Metropolitan Council and the Minnesota Pollution Control Agency, as required, and licensed by the city.

All mixed municipal solid waste and/or separate waste streams involved in the operation of the facility shall be confined to adequate enclosed areas for dumping, storage and handling. Access to the facility shall be provided only at times that are approved and when authorized employees are on duty at the facility.

Adequate equipment and facilities shall be provided to clean the loading, unloading, dumping, storage and handling areas, and it is required that the entire facility be maintained in a sanitary condition at all times.

Mixed municipal solid waste which is to be finally disposed of at a resource recovery or disposal facility shall be removed promptly to an approved site.

~~(h)~~(m) *Incineration:*

- (1) Responsibility: ~~Effective January 1, 1992, n~~No incinerator with a maximum refuse burning capacity of less than one thousand (1,000) pounds per hour may be operated. The owner and/or occupant of any premises, business establishment or industry involved in the operation of an incinerator not prohibited by this section for the reduction of mixed municipal solid waste by incineration shall be responsible for the operation and maintenance of the incinerator in a manner consistent with the health, safety and general welfare of the public and in accordance with the provisions of this chapter and in compliance with the requirements of the Minnesota Pollution Control Agency.
- (2) Facilities and operation: All facilities and operations for the reduction of mixed municipal solid waste by incineration and any attendant operation as listed in paragraph ~~(h);l~~ of this section that may be carried on in conjunction with incineration at the same premises shall be carried on in a facility designed for the purpose and approved by Ramsey County, Metropolitan Council, the Minnesota Pollution Control Agency, and as approved and licensed by the city.

All mixed municipal solid waste involved in the operation of the facility shall be confined to adequate enclosed areas for dumping, storage, handling and charging. Adequate fire protection shall be provided in the dumping, storage, handling and charging areas. Adequate facilities and equipment shall also be provided to clean the entire premises, including water supply and drainage for washing down the entire facility.

The provisions of this section shall apply not only to the incineration activities where the sole purpose is the reduction of mixed municipal solid waste in volume and weight, but shall apply to other activities as may be required to salvage, process and utilize mixed municipal solid waste for operation including the generation of steam for heat and power.

The remaining mixed municipal solid wastes, including incinerator residue and noncombustible mixed municipal solid waste which is to be finally disposed of at a sanitary landfill, are to be removed from the site regularly with no excessive storage of the material at the incinerator site. Access to the facility shall be provided only at those times which are approved and when authorized employees are on duty at the facility.

~~(i)~~(n) *Disposal facility:*

- (1) Responsibility: While it is not anticipated that there will be any public or private disposal facility operation within the city limits after the closing of the Pig's Eye landfill operation, these provisions are

included in the event that the availability of sites in other locations makes it necessary to utilize relatively small areas that may be available. Those sites, with certain specific variances from the Minnesota Pollution Control Agency, Ramsey County, the Metropolitan Council and the city may be required for the disposal of mixed municipal solid waste within the city. The owner and/or occupant of any premises to be utilized for the purpose of a disposal facility disposal area shall be responsible for the operation and maintenance of the facility in a manner consistent with the health, safety and general welfare of the public and in accordance with this chapter and in compliance with all applicable state laws.

- (2) Facilities and operation: All facilities and operation of a disposal facility for the disposal of mixed municipal solid waste shall be ~~conducted~~ ~~carried on~~, on a premises that is approved and licensed by the city for this purpose. No disposal facility shall be approved or licensed unless it has been approved by the Minnesota Pollution Control Agency, the Metropolitan Council and Ramsey County.

Adequate fire protection shall be provided and arranged for at the site.

Access for the purpose of disposing of mixed municipal solid waste shall be during the hours that are approved by the city council and shall only be at those times when authorized employees are on duty at the facility.

Section 357.06. - Enforcement.

- (a) *Revocation or suspension of license.* The city council may suspend or revoke any license when the licensee neglects or fails to comply with the provisions of applicable Minnesota Statutes, Ramsey County solid waste management ordinances, and city ordinances.
- (b) *Inspection.* Inspection may be made of any premises, facilities or equipment in connection with the storage, collection, transportation, treatment, handling, utilization, processing and final disposal of mixed municipal solid waste and/or separate waste streams at any reasonable time upon showing proper identification. Inspection may be made by authorized personnel from the department of public works and/or the department of safety and inspections, or the county, the metropolitan council, the state pollution control agency, as appropriate, or any peace officer.
- (c) *Violations.* Whenever it is found that a violation of the provisions of this chapter exists, in addition to any other available remedy, the department of public works and/or the department of safety and inspections may take action to correct the conditions by serving a written order or notice upon the person responsible therefor directing him to discontinue the illegal action or correct the condition which is in violation of the provisions and regulations of this chapter. Any violation of this chapter is a misdemeanor, unless otherwise specified.

Section 357.07. - City collection of mixed municipal solid waste.

City departments may collect mixed municipal solid waste from city buildings and other city facilities, including the provision of recycling receptacles and collection services.

Section 357.08. - Residential composting.

Composting by residents on their own property is permitted provided the following regulations are complied with:

- (1)(a) *Container*. Composting shall be conducted within an enclosed container(s) not to exceed a total of one hundred (100) cubic feet in volume for city lots less than ten thousand (10,000) square feet and one hundred fifty (150) cubic feet for lots greater than ten thousand (10,000) square feet, and five (5) feet high. The container(s) shall be of a durable material such as wood, block or sturdy metal fencing material.
- (2)(b) *Container location*. The compost container(s) shall be located at least five (5) feet from lot lines and be placed no closer than twenty (20) feet to any habitable building, other than the resident's own home, nor less than two (2) feet from the alley if any alley exists.
- (3)(c) *Materials allowed*. Only organic yard materials, including grass clippings, leaves, ~~faded flowers,~~ ~~weeds,~~ garden wastes, weeds and plant trimmings or prunings, sawdust, wood ash and plant trimmings, lake plants, straw; fowl fecal waste or litter of fowl, kitchen scraps such as fruit and vegetable peels and trimmings, coffee grounds and egg shells, and other raw, nongreasy food wastes; and commercially available compost materials, may be placed in the compost container(s).
- (4)(d) *Materials not allowed*. None of the following materials shall be placed in the compost container(s): meat, bones, fat, oils, dairy products and other greasy kitchen wastes, whole branches or logs, plastics, synthetic fibers, human or pet wastes or heavily diseased plants.
- (5)(e) *~~Odors~~Maintenance*. Compost shall be properly managed to minimize odor generation and promote effective decomposition of the materials in a safe, secure and sanitary manner.

Section 357.09. - Mandatory separation of recyclable materials and compostable materials.

(a) *Mandatory separation required:*

- (1) *Recyclable materials-Residential property*. ~~Effective July 1, 1991,~~ ~~e~~Every owner, lessee or occupant of residential property shall separate recyclable materials from other mixed municipal solid waste and shall set recyclable materials out for collection in the manner and at such frequency as shall be prescribed by the city's director of public works, or shall deliver the recyclable materials to a recycling

facility approved by the department of public works.

- (2) *Recyclable materials-Commercial/industrial property.* ~~Effective January 1, 1992,~~ Every owner, lessee or occupant of commercial and industrial property shall separate recyclable materials from other mixed municipal solid waste and shall set recyclable materials out for collection in the manner and at such frequency as shall be prescribed by the city's director of public works, or shall deliver the recyclable materials to a recycling facility approved by the department of public works.
- (3) *Compostable materials.* ~~Effective January 1, 1993,~~ and tTo the extent permitted by Ramsey County solid waste ordinances, every owner, lessee or occupant of residential, commercial and industrial property shall separate separated compostable materials from other mixed municipal solid waste and shall set separated compostable materials out for collection in the manner and at such frequency as shall be prescribed by the city's director of public works or shall deliver the compostable materials to a composting facility approved by the department of public works.
- (4)(b) *Enforcement.* The department of public works shall enforce mandatory source separation, taking into consideration which sectors, residential, commercial and institutional, or industrial, are not meeting State of Minnesota and/or Ramsey County mandated recycling goals.

~~(b)~~(c) *Containers for recyclable materials.*

Containers for recyclable materials used by owners, lessees or occupants of any residential buildings consisting of ~~eleven (11) or fewer dwelling units~~ and which are set out for collection shall:

- (1) Be city owned and/or approved, wheeled carts or dumpsters that are durable, rust-resistant, nonabsorbent, watertight, rodent-proof, easily cleanable containers with close-fitting, fly-tight covers;
- (2) Be located in a manner so as to prevent the containers from being overturned, obstructing pedestrian or motor vehicle traffic or being in violation of any statute, ordinance, rule or regulation;
- (3) Be kept in an enclosed area except on the evening prior to and on the day of regularly scheduled curbside or alley collection; and
- (4) Be maintained in a condition that complies with all pertinent health statutes, ordinances, rules and regulations.

Containers for recyclable materials used by owners, lessees or occupants of any residential buildings consisting of ~~twelve (12) or more dwelling units~~ and which are set out for collection shall:

- (1) ~~Be city owned, wheeled carts and/or city or hauler owned dumpsters that are durable, rust-resistant, nonabsorbent, watertight, rodent-proof, easily cleanable containers with close-fitting, fly-tight covers;~~
- (2) ~~Be located in a manner so as to prevent the containers from being overturned, obstructing pedestrian or motor vehicle traffic or being in violation of any statute, ordinance, rule or regulation;~~
- (3) ~~Be kept in an enclosed area except on the evening prior to and on the day of regularly scheduled curbside or alley collection; and~~
- (4) ~~Be maintained in a condition that complies with all pertinent health statutes, ordinances, rules and~~

regulations.

~~(e)~~(d) *Containers for compostable materials.* Containers for compostable materials used by owners, lessees or occupants of any residential buildings consisting of four (4) or less dwelling units when stored out-of-doors shall be of durable, rust-resistant, nonabsorbent, watertight, rodent-proof, easily cleanable containers with close-fitting, fly-tight covers.

~~(d)~~(e) *Collection of recyclable and compostable materials.* The residential curbside or alley collection of recyclable and/or compostable materials shall be supervised by the city and the city shall have the power to establish the time, method and routes of collection.

- (1) Notice of dates and times of collection will be published and otherwise made available to the public.
- (2) Notice of the location and hours of business for sites where any person may deposit recyclable materials will be made available to the public.
- (3) Nothing in this chapter shall abridge the right of any person to give or sell their recyclable materials to any lawfully operated recycling program or facility.
- (4) Nothing in this chapter shall abridge the right of any authorized recycling facility to lawfully operate within the city, subject to all licenses, permits or regulations as may be required by law.

~~(e)~~(f) *Enforcement.* This section 357.09 shall be enforced by the public works department or the department of safety and inspections.

~~(f)~~(g) *Penalty.* Every owner, lessee or occupant of residential buildings consisting of four (4) or less dwelling units violating the provisions of this section shall be guilty of a petty misdemeanor and subject to a fine of twenty-five dollars (\$25.00). Other persons violating the provisions of this section shall be guilty of a petty misdemeanor and subject to a fine not to exceed one hundred dollars (\$100.00). Violators shall be given a written warning for the initial violation. A penalty shall be imposed for each subsequent violation. Each day a violation continues shall constitute a separate offenses.

~~(g)~~(h) *Findings and determinations.* In accordance with Minnesota Statutes, Section 115A.46(4), a county may not delegate to another governmental unit or other person any portion of its responsibility for solid waste management unless it establishes a funding mechanism to assure the ability of the entity to which it delegates responsibility to adequately carry out the responsibility delegated.

~~(h)~~(i) *Charges.* The charge for allowable costs of providing residential recycling collection services shall be paid from funds received by the city from Ramsey County, the State of Minnesota, other entities, and/or a required surcharge set and/or collected by the city. Commercial recycling fees are charged by licensed refuse and/or recycling haulers to the customer.

Section 357.10. - Ownership of recyclable materials.

Ownership of recyclable materials set out for the purpose of participating in curbside or alleyside recycling programs shall remain with the person who set out the materials until removed by the authorized collector. Until the materials are removed by the authorized collector, the person who set out the materials is totally responsible for their proper preparation, handling and storage. Ownership and responsibility for the proper handling of the recyclable materials shall vest in the authorized collector upon removal thereof by the collector.

Section 357.11. - Unauthorized collection.

It shall be unlawful for any person who is not authorized by the city or county to take or collect recyclable material set out for authorized collection programs within the city. Any person violating this provision shall be subject to the penalties provided in section 1.05 of this Code.

SECTION 2

This Ordinance shall take effect and be in force on October 1, 2018 following its passage, approval and publication.